GENERAL LAWS

OF THE

STATE OF IDAHO

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

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Volume 2

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

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BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 257
(S.B. No. 1223)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF OPERATIONS; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS DIVISION OF OPERATIONS FOR FISCAL YEAR 2006; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2006; DIRECTING THAT $9,500,000 BE EXPENDED FOR TECHNOLOGY AND REMEDIATION PROGRAMS; APPROPRIATING THE AMOUNT OF GENERAL FUND MONEY NECESSARY AS DETERMINED BY SECTION 33-1002D, IDAHO CODE, FOR PROPERTY TAX REPLACEMENT; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT; REPEALING SECTION 33-120A, IDAHO CODE; AMENDING SECTION 33-1002, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT FUNDING BE PROVIDED FOR THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING SECTION 33-1003A, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 321, LAWS OF 1995, TO REDESIGNATE THE SECTION AND TO REDUCE MINIMUM SUPPORT GUARANTEED TO A DISTRICT; REPEALING SECTION 33-1003B, IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE FOR SECTION 10 OF THIS ACT.

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

SECTION 1. The following amount shall be expended from state sources for the Public Schools Division of Operations for the period July 1, 2005, through June 30, 2006:

FROM:

General Fund	$250,479,500
Public School Endowment Earnings Reserve Fund Transfer	23,087,100
Federal Mineral Royalties	1,500,000
Liquor Control Fund	1,200,000
Miscellaneous Receipts/Balances	1,295,700
Federal Grant Fund	5,550,800
TOTAL	$283,113,100

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2005, through June 30, 2006:

FROM:

General Fund	$250,479,500

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Operations, pursuant to law and the provisions of this act, the following amounts to be expended from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:

Public School Income Fund	$277,562,300
Federal Grant Fund	5,550,800
TOTAL	$283,113,100

SECTION 4. Of the moneys appropriated in Section 3 of this act, $9,500,000 shall be expended by the Superintendent of Public Instruction as follows:

(1) The Idaho Council for Technology in Learning shall distribute $4,050,000 for ongoing school district technology expenditures, through the Public School Technology Grant Program, pursuant to Section 33-4806, Idaho Code. Such expenditures may include the personnel costs associated with school district information technology staff support. Of this amount, up to $160,000 may be expended by the Superintendent of Public Instruction for staff support and various expenses related to the Idaho Council for Technology in Learning, as approved by the State Board of Education, including the cost of providing one (1) copy of the Office of Performance Evaluations' Report 05-01 on Public School Technology Initiatives to each school district and public charter school;

(2) The Superintendent of Public Instruction shall transfer $350,000 to the Library Services Improvement Fund for the ongoing costs associated with State Library's "Libraries Linking Idaho" (LiLI) statewide database licensing project;

(3) The Superintendent of Public Instruction shall distribute $5,100,000 to school districts in a like manner as equalized, ongoing state discretionary funds, with seventy-five percent (75%) of such funds being distributed by August 31, and twenty-five percent (25%) of such funds in the final payment of the fiscal year. Such funds shall be expended, at the discretion of the school district board of trustees, on either purchasing technology equipment and software, or defraying costs associated with providing remedial instruction for students that fail to attain proficiency in one (1) or more sections of the Idaho Standards Achievement Test, or both. The Superintendent of Public Instruction shall submit a report on the usage of such funds to the Joint Finance-Appropriations Committee, the House Education Committee, and the Senate Education Committee by February 1, 2007.

SECTION 5. Of the moneys appropriated in Section 3 of this act, there is hereby appropriated the amount necessary for property tax replacement, subject to the limitations of law, to be expended according to Section 33-1002D, Idaho Code, for the period July 1, 2005, through June 30, 2006.

SECTION 6. Pursuant to the provisions of Section 33-1018, Idaho Code, it is estimated that the appropriation of state funds to the Educational Support Program/Division of Operations will result in total discretionary funds of $24,695 per support unit.

SECTION 7. That Section 33-120A, Idaho Code, be, and the same is hereby repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

k. ~~For expenditure necessary to support the Idaho student--information management system (ISIMS) as provided in section 33-120A, Idaho Code, beginning with fiscal year 2005-2006 and each year thereafter, at--an--amount not less than that expended by the state and the J.A. and Kathryn Albertson foundation combined, on operation of the project in fiscal year 2004-2005; and~~

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

to secure the state educational support funds.

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

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

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the

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

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

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

COMPUTATION OF ELEMENTARY SUPPORT UNITS

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

COMPUTATION OF SECONDARY SUPPORT UNITS

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

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

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

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

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

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

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

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

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

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

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

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by

the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

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

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

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section.

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

SECTION 9. That Section 33-1003A, Idaho Code, as added by Section 1, Chapter 321, Laws of 1995, be, and the same is hereby amended to read as follows:

33-1003~~A~~B. SPECIAL APPLICATION -- MINIMUM SUPPORT. In the application of the provisions of the education support program, no district's distribution shall be less in any year than ~~ninety~~ fifty percent (~~95~~50%) of the distribution of state educational dollars less the special program allocations in sections 33-1002, 33-1007A and 33-2006, Idaho Code, received by that district in the immediately preceding year.

SECTION 10. That Section 33-1003B, Idaho Code, be, and the same is hereby repealed.

SECTION 11. Section 10 of this act shall be in full force and effect on and after July 1, 2006.

Approved April 5, 2005.

CHAPTER 258
(H.B. No. 17)

AN ACT

RELATING TO POWERS OF THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-3405, IDAHO CODE, TO PROVIDE FOR FLEXIBILITY IN PAYMENT OF SALARIES FOR EMPLOYEES OF THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-3405, Idaho Code, be, and the same is hereby amended to read as follows:

33-3405. GENERAL POWERS OF BOARD. The board of trustees of the Idaho ~~S~~school for the ~~D~~deaf and the ~~B~~blind shall have the following powers:

(1~~.~~) To adopt rules and regulations for its own government and that of the school;

(2~~.~~) To employ a superintendent of the school, and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the school; to fix salaries and prescribe duties; ~~and~~ to remove the superintendent or any other employee for cause; and to, at the discretion of the superintendent, allow all employees eligible for benefits to elect to receive their salary on a year-round basis. Such a payment schedule shall not be considered a guarantee of employment;

(3~~.~~) With the advice of the superintendent, to prescribe the course of study, the textbooks to be used, and for those pupils who complete the requirements for grade twelve (12), the time and standard of graduation;

(4~~.~~) To have at all times, general supervision and control of all property, real and personal, appertaining to the school, and to insure the same;

(5~~.~~) To employ architects or engineers in planning the construction, remodeling or repair of any building and, whenever no other agency is designated so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof;

(6~~.~~) To expend moneys appropriated, or otherwise placed to the credit of the school for the maintenance and operation thereof, and to account for the same as prescribed by law;

(7~~.~~) To provide for the conveyance of pupils to and from the school, the expense of such conveyance being a lawful use of the moneys available to the board of trustees.

Approved April 5, 2005.

CHAPTER 259
(H.B. No. 23)

AN ACT

RELATING TO REGULATION OF ELECTRONIC BINGO DEVICES; AMENDING SECTION 67-7702, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7709, IDAHO CODE, TO INCLUDE REFERENCE TO ELECTRONIC BINGO PAPER; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7716, IDAHO CODE, TO GOVERN THE APPROVAL OF ELECTRONIC BINGO DEVICES AND SITE SYSTEMS AND TO AUTHORIZE TESTING; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7717, IDAHO CODE, TO SPECIFY REQUIREMENTS FOR MANUFACTURE AND DISTRIBUTION OF ELECTRONIC BINGO DEVICES INCLUDING REQUIREMENTS FOR DOWNLOAD AND CERTAIN PROHIBI-

TIONS, RESTRICTIONS ON NUMBERS OF FACES PER GAME, AND PROCEDURES FOLLOWING MALFUNCTIONS; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7718, IDAHO CODE, TO SPECIFY REQUIREMENTS AND DUTIES OF LICENSED DISTRIBUTORS INCLUDING NOTIFICATION REQUIREMENTS AND INVOICE REQUIREMENTS; AND AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7719, IDAHO CODE, TO GOVERN OPERATIONS OF LICENSED ORGANIZATIONS.

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

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

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

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

(a) Upon approval by the bingo-raffle advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

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

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

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

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

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

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

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

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

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

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

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

(iv) Identifies winning bingo patterns; and

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

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

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

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

(~~7~~10) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code, or an unincorporated association recognized under chapter 7, title 53, Idaho Code.

(~~8~~11) "Organization" means a charitable organization or a nonprofit organization.

(~~9~~12) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentalities thereof.

(~~10~~3) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.

(~~11~~4) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.

(15) "Site system" means the computer hardware, software and peripheral equipment used by a licensed organization at the site of its bingo session which provides electronic bingo cards or bingo card monitoring devices to players, and which receipts the sale or rental or such cards

and devices and generates reports relative to such sales or rentals.

(12~~6~~) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

(13~~7~~) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.

SECTION 2. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS.

(1) (a) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds.

(b) Funds from bingo accounts must be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person. A check or withdrawal slip shall not be made payable to "cash," "bearer" or a fictitious payee. The nature of the payment made shall be noted on the face of the check or withdrawal slip. Checks for the bingo account shall be imprinted with the words "bingo account" and shall contain the organization's bingo license name on the face of each check. A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips.

(c) Any proceeds available in a bingo account after payment of the expenses set forth in paragraph (1)(a) of this subsection shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection.

(d) All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than twenty

percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than fifteen percent (15%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is utilized for prizes on the bingo game. Two hundred fifty dollars ($250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo session. Such wages shall be part of the fifteen percent (15%) gross revenues used for administrative expenses. An organization requesting an exemption from the disbursement percentages provided in this subsection for administrative costs may request an exemption from the state lottery commission.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo sessions conducted or sponsored by the licensed organization;

(b) The location and date at which each bingo session was conducted;

(c) The gross revenues of each bingo session;

(d) The fair market value of any prize given at each bingo session;

(e) The number of individual players participating in each session;

(f) The number of cards played in each session;

(g) The amount paid in prizes at each session;

(h) The amount paid to the charitable organization;

(i) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and

(j) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100).

(3) Any organization required to be licensed to conduct bingo operations under the provisions of this chapter shall use only nonreusable colored bingo paper <u>or electronic bingo paper</u> so that all sales may be tracked. The nonreusable colored paper must have a series and serial number on each card. At the conclusion of each session, all organizations using nonreusable bingo paper must track their bingo sales per session by recording the series and serial numbers of all paper sold, damaged, donated or used for promotion in that session. Each such organization shall keep a ledger of the numbers of all such papers used during each session. All paper must be tracked as either sold, damaged, donated, used for promotion, or omitted from the original distributor or manufacturer. Paper tracking ledgers and invoices from the distributor

or manufacturer for nonrefundable colored bingo paper must be kept with the permanent records for that bingo operation.

(4) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this section shall be guilty of a misdemeanor.

(5) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars ($200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 3. That Chapter 77, 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 67-7716, Idaho Code, and to read as follows:

67-7716. ELECTRONIC BINGO DEVICE AND SITE SYSTEMS -- APPROVAL REQUIRED. (1) Electronic bingo devices and site system software shall be sold, rented, leased or otherwise provided in this state only by a licensed manufacturer. Licensed manufacturers shall sell, rent, lease or otherwise provide such equipment only to a licensed distributor. A copy of any contractual agreement between a licensed manufacturer and a licensed distributor relative to the marketing of the manufacturer's equipment in this state, shall be provided to the commission.

(2) No electronic bingo device or site system software may be sold, rented, leased or otherwise provided to any person in this state for use in a bingo game conducted pursuant to this chapter unless and until such device and system software have been approved by the commission. Approval of the device or site system software will be based upon conformance with the requirements contained in this chapter and rules established by the commission for the testing and review of these types of devices and systems.

(3) A licensed manufacturer seeking approval of an electronic bingo device or site system software may be required to submit a prototype of the device or system software for testing and review, at the expense of the manufacturer, as required by the commission. Once approved, any hardware or software modifications must be preapproved by the commission. A licensed manufacturer shall be responsible for the actual costs of testing and examining bingo card monitoring devices, host systems and site system hardware.

SECTION 4. That Chapter 77, 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 67-7717, Idaho Code, and to read as follows:

67-7717. MANUFACTURING AND DISTRIBUTING REQUIREMENTS. (1) No electronic bingo device shall be able to monitor more than fifty-four (54) bingo faces per game. The licensed manufacturer or distributor must

restrict the device to store no more than fifty-four (54) faces per bingo game in its electronic database. After July 1, 2005, the maximum amount of electronic bingo cards played per game may be set by rule of the commission.

(2) Each electronic bingo device that requires a site system to download electronic bingo cards to the device, shall have a unique and permanent identification number hardcoded into the device's software. The identification number shall be communicated from the device to the site system whenever the device is connected to the site system, and printed on all transaction logs including the player's receipt. Manual input of a device identification number into the site system or on any transaction log or receipt is prohibited.

(3) Each electronic bingo device shall be programmed to automatically erase all electronic bingo cards and/or bingo card face numbers stored in the device: (a) upon turning off the device after the last bingo game of the session has been played, or (b) by some secondary timing method established by the manufacturer and approved by the commission.

(4) No electronic bingo device shall be designed to allow bingo players the ability to design their own bingo cards by choosing, rearranging or placing numbers on a card.

(5) A site system shall not be able to engage in any type of sale, void or reload transaction unless an electronic bingo device is connected to and communicating with the site system.

(6) A site system shall be restricted to load no more than fifty-four (54) electronic bingo faces per bingo game into any one (1) electronic bingo device, and the site system must be interfaced with a printer which is capable of printing upon request, a continuous hard copy transaction log and a printout for the player showing the device identification number, and all of the bingo cards and their face numbers loaded into the device. A receipting function for electronic bingo cards must be self-contained within the site system and must record and print out on a copy which is given to the player, the device identification number, the date, number of electronic bingo cards purchased or loaded, and the total amount charged for the electronic bingo cards.

(7) A site system shall be able to provide the winning game patterns required for the entire bingo session on a hardcopy printout. The printout must be available upon demand at the bingo session.

(8) If the commission detects or discovers any malfunction or problem with an electronic bingo device or site system that could affect the security or integrity of the bingo game, the electronic bingo devices, or the site system, the commission may direct the manufacturer, distributor or licensed organization to cease providing or using the electronic bingo devices or site system, as applicable. The commission may require the manufacturer to correct the problem or recall the devices or system immediately upon notification by the commission to the manufacturer. Failure to take the corrective action requested may result in confiscation or seizure of the devices and/or site system.

(9) If a manufacturer, distributor or licensed organization detects or discovers any malfunction or problem with the electronic bingo devices or site system which could affect the security or integrity of the bingo game, bingo card monitoring devices, or site system, the manufacturer, distributor or licensed organization, as applicable, shall discontinue use of the devices or site system and notify the commission

by telephone by the next working day of such action and the nature of the problem detected. The commission may request further explanation in writing if deemed necessary.

SECTION 5. That Chapter 77, 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 67-7718, Idaho Code, and to read as follows:

67-7718. LICENSED DISTRIBUTOR REQUIREMENTS AND DUTIES. (1) A licensed distributor shall purchase, rent, lease or otherwise obtain electronic bingo devices and site system software only from a manufacturer licensed by the commission. A licensed distributor shall sell, rent, lease or otherwise provide, only electronic bingo devices and site system software that have been approved by the commission.

(2) A licensed distributor shall sell, rent, lease or otherwise provide electronic bingo devices and site system software in this state only to an organization holding a charitable gaming bingo license.

(3) Before the initial use by the licensed organization, the licensed distributor must notify the commission in writing of the sale, rental, lease, provision, and/or installation of any electronic bingo devices or site system software. Such notification shall include:

(a) The complete name and address of the licensed organization and its license number;

(b) The type of equipment, including serial numbers, sold, rented, leased, provided or installed;

(c) The expected start-up date for use of the equipment by the licensed organization; and

(d) A copy of any agreement between the licensed distributor and the organization for the use of the equipment.

(4) The licensed distributor shall serve as the initial contact for the licensed organization with respect to requests for installation, service, maintenance, or repair of electronic bingo devices and site systems, and for the ordering of electronic bingo cards, if applicable. The distributor may, as needed, enlist the aid of the licensed manufacturer in providing service, repair or maintenance of the devices or site system. A licensed manufacturer may, with commission approval, authorize or subcontract with a person or company to service, maintain or repair bingo card monitoring devices and/or site systems; however, the ultimate liability for such service, maintenance or repair shall be solely that of the licensed manufacturer.

(5) The licensed distributor shall invoice the licensed organization and collect any and all payments for the sale, rental, lease or other use of the electronic bingo cards, bingo card monitoring devices and site systems. The distributor may, at its discretion, allow the licensed manufacturer to generate the invoice; however, all payments by the licensed organization must be remitted directly to the distributor. The licensed distributor must ensure that its name, complete address, and telephone number appear on the invoice as well as the name, complete address and license number of the licensed organization.

(6) Electronic bingo devices may be transported by a licensed distributor from one (1) location to another for use by more than one (1) licensed organization provided the distributor notifies the commission of the rotation schedule of the devices. However, each licensed organization utilizing a site system must have its own site system, which can-

not be moved from its bingo location or be used by another organization without prior approval from the commission.

SECTION 6. That Chapter 77, 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 67-7719, Idaho Code, and to read as follows:

67-7719. LICENSED ORGANIZATIONS -- USE OF ELECTRONIC BINGO DEVICES. (1) A licensed organization shall purchase, rent, lease or otherwise obtain electronic bingo devices and site system software only from an Idaho licensed distributor. A licensed organization may obtain terminals and/or printers to be used in conjunction with site system software obtained from a licensed distributor, from any source.

(2) The use of a player-owned electronic bingo device at a bingo session is prohibited.

(3) Electronic bingo devices shall be rented, leased or otherwise provided to bingo players only by the licensed organization conducting the bingo session, and only at the time and place of the bingo session. A bingo player using an electronic bingo device must be physically present on the premises, during the time of the bingo session, in order to be eligible to play bingo or win any bingo prize.

(4) Regardless of the number of electronic bingo devices made available for play, at least one (1) device shall be reserved by the licensed organization as a backup device, in the event a device in play malfunctions.

(5) Electronic bingo devices shall be made available to players on a first-come, first-served basis. No device may be reserved for any player, except a device may be reserved for any player with a disability that would restrict his or her ability to mark cards and such disability is consistent with definitions set forth in the Americans with disabilities act.

(6) No bingo player shall be allowed to utilize more than one (1) bingo card monitoring device at any time during a bingo occasion.

(7) An electronic bingo device cannot be used to monitor hard bingo cards or shutter cards.

(8) A licensed organization shall not permit a bingo player to choose or reject individual electronic bingo cards loaded into an electronic bingo device.

(9) At the licensed organization's discretion, a bingo player may, in addition to the maximum fifty-four (54) bingo cards per game which he or she purchases to monitor with an electronic bingo device, purchase additional disposable paper bingo cards to play using a manual daubing or marking method.

(10) An electronic bingo device shall be downloaded with electronic bingo cards by the licensed organization:

(a) Only upon payment by the player;

(b) Only on the premises of the licensed organization's bingo session; and

(c) Only during the time of the bingo session.

(11) A licensed organization may, at its discretion, charge a separate fee to players for the use of an electronic bingo device. The fee charged must be separately stated on the cash register and bingo player's receipt and shall be included in the bingo cash receipts.

(12) The sale of all bingo cards used in conjunction with an electronic bingo device must be receipted by either cash register or site system. Additional disposable paper bingo card sales must be separately receipted and, in addition, the cash register and player's receipt must identify and show the sale of disposable paper bingo cards separately from that of electronic bingo cards.

Approved April 5, 2005.

CHAPTER 260
(H.B. No. 49, As Amended)

AN ACT

RELATING TO TORT CLAIMS; AMENDING SECTION 6-902, IDAHO CODE, TO REVISE THE DEFINITION OF "EMPLOYEE"; AND AMENDING SECTION 6-903, IDAHO CODE, TO PROVIDE THAT A GOVERNMENTAL ENTITY SHALL PROVIDE A DEFENSE AND INDEMNIFICATION AGAINST ANY CLAIMS BROUGHT AGAINST AN EMPLOYEE IN THE EMPLOYEE'S INDIVIDUAL CAPACITY WHEN THE CLAIMS ARE RELATED TO THE COURSE AND SCOPE OF EMPLOYMENT AND TO PROVIDE FOR THE RIGHT TO A HEARING FOLLOWING THE DISMISSAL OF A CLAIM.

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

SECTION 1. That Section 6-902, Idaho Code, be, and the same is hereby amended to read as follows:

6-902. DEFINITIONS. As used in this act:

1. "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

2. "Political subdivision" means any county, city, municipal corporation, health district, school district, irrigation district, an operating agent of irrigation districts whose board consists of directors of its member districts, special improvement or taxing district, or any other political subdivision or public corporation. As used in this act, the terms "county" and "city" also mean state licensed hospitals and attached nursing homes established by counties pursuant to chapter 36, title 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37, title 31, Idaho Code.

3. "Governmental entity" means and includes the state and political subdivisions as herein defined.

4. "Employee" means an officer, board member, commissioner, executive, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity, temporarily or permanently in the service of the governmental entity, whether with or without compensation, but the term employee shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which this act applies in the event of a claim.

5. "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence.

6. "Property damage" means injury or destruction to tangible property caused by an occurrence.

7. "Claim" means any written demand to recover money damages from a governmental entity or its employee which any person is legally entitled to recover under this act as compensation for the negligent or otherwise wrongful act or omission of a governmental entity or its employee when acting within the course or scope of his employment.

SECTION 2. That Section 6-903, Idaho Code, be, and the same is hereby amended to read as follows:

6-903. LIABILITY OF GOVERNMENTAL ENTITIES -- DEFENSE OF EMPLOYEES. (a) Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho, provided that the governmental entity is subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the negligent or otherwise wrongful acts or omissions of the governmental entity or its employees.

(b) (i) A governmental entity shall provide a defense to its employee, including a defense and indemnification against any claims brought against the employee in the employee's individual capacity when the claims are related to the course and scope of employment, and be responsible for the payment of any judgment on any claim or civil lawsuit against an employee for money damages arising out of any act or omission within the course and scope of his employment; provided that the governmental entity and its employee shall be subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the act or omission of the employee; (ii) provided further, that to the extent there is valid and collectible, applicable insurance or any other right to defense or indemnification legally available to and for the protection of an employee, while operating or using an automobile, aircraft or other vehicle not owned or leased by the governmental entity and while acting within the course and scope of his/her employment or duties, the governmental entity's duty hereunder to indemnify the employee and/or defend any such claim or lawsuit arising out of the operation or use of such personal automobile, aircraft or vehicle, shall be secondary to the obligation of the insurer or indemnitor of such automobile, aircraft or vehicle, whose obligation shall be primary; and (iii) provided further, this paragraph shall not be construed to alter or relieve any such indemnitor or insurer of any legal obligation to such employee or to any governmental entity vicariously liable on account of or legally responsible for damages due to the allegedly wrongful error, omissions, conduct, act or deed of such employee.

(c) The defense of its employee by the governmental entity shall be undertaken whether the claim and civil lawsuit is brought in Idaho district court under Idaho law or is brought in a United States court under federal law. The governmental entity may refuse a defense or disavow and refuse to pay any judgment for its employee if it is determined that the

act or omission of the employee was not within the course and scope of his employment or included malice or criminal intent.

(d) A governmental entity shall not be entitled to contribution or indemnification, or reimbursement for legal fees and expenses from its employee unless a court shall find that the act or omission of the employee was outside the course and scope of his employment or included malice or criminal intent. Any action by a governmental entity against its employee and any action by an employee against the governmental entity for contribution, indemnification, or necessary legal fees and expenses shall be tried to the court in the same civil lawsuit brought on the claim against the governmental entity or its employee.

(e) For the purposes of this act and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his employment is within the course and scope of his employment and without malice or criminal intent.

(f) Nothing in this act shall enlarge or otherwise adversely affect the liability of an employee or a governmental entity. Any immunity or other bar to a civil lawsuit under Idaho or federal law shall remain in effect. The fact that a governmental entity may relieve an employee from all necessary legal fees and expenses and any judgment arising from the civil lawsuit shall not under any circumstances be communicated to the trier of fact in the civil lawsuit.

(g) When a claim asserted against an employee in the employee's individual capacity is dismissed by the court, the dismissed party shall have the right to a hearing pursuant to the provisions of section 12-123, Idaho Code.

Approved April 5, 2005.

CHAPTER 261
(H.B. No. 72)

AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-3103, IDAHO CODE, TO REMOVE THE EXEMPTION FOR CERTAIN AGENTS WHO ACT UNDER EXCLUSIVE CONTRACTS.

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

SECTION 1. That Section 26-3103, Idaho Code, be, and the same is hereby amended to read as follows:

26-3103. EXEMPTIONS. The provisions of this chapter 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 reg-

ularly 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, and shall also include employees and agents of a licensee if the licensee is an affiliate of a bank and is wholly owned by the holding company system that owns the bank;

(7) Attorneys, or persons licensed under chapter 2, title 54, Idaho Code, provided that the license held by such attorneys or persons is in an active status;

(8) Persons employed by, or who contract with, a licensee under this chapter 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; ~~or agents who act under an exclusive contract with no more than one (1) licensee on a full time or part time basis;~~

(9) Any person or entity 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

(10) Any person who funds a residential mortgage loan which has been originated and processed by a licensee or by an exempt person, 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 or exempt person.

Approved April 5, 2005.

CHAPTER 262
(H.B. No. 73)

AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-3102, IDAHO CODE, TO UPDATE REFERENCES TO FEDERAL PROVISIONS.

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

SECTION 1. That Section 26-3102, Idaho Code, be, and the same is hereby amended to read as follows:

26-3102. DEFINITIONS. As used in this chapter and in rules promulgated pursuant to this chapter:

(1) "Act" means this Idaho residential mortgage practices act.

(2) "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.

(3) "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 subsection (18), (19), or (20) of this section are conducted.

(4) "Department" means the department of finance of the state of Idaho.

(5) "Director" means the director of the department of finance.

(6) "Licensee" means a person licensed pursuant to this chapter to engage in the activities regulated by this act.

(7) "Mortgage lender" means any person, other than an exempt person, who makes residential mortgage loans to borrowers, and performs the activities described in subsection (18) of this section.

(8) "Mortgage broker" means any person, other than an exempt person, who performs the activities described in subsection (19) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "mortgage broker" does not include persons who are mortgage lenders.

(9) "Loan originator" means any person, other than an exempt person, who performs the activities described in subsection (20) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "loan originator" does not include persons who are mortgage brokers or mortgage lenders.

(10) "Mortgage brokerage agreement" means a written agreement in which a mortgage broker agrees to obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan.

(11) "Person" means an individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other association of individuals, however organized.

(12) "Real estate settlement procedures act" means the act set forth in 12 U.S.C. section 2601 et seq., as amended to and including January 1, 2004<u>5</u>, or a subsequent date if so defined by administrative rule.

(13) "Regulation X" means regulation X as promulgated by the U.S. department of housing and urban development and codified in 24 CFR part 3500 et seq., as amended to and including January 1, 2004<u>5</u>, or a subsequent date if so defined by administrative rule.

(14) "Regulation Z" means regulation Z as promulgated by the board of governors of the federal reserve system and codified in 12 CFR part 226 et seq., as amended to and including January 1, 2004<u>5</u>, or a subsequent date if so defined by administrative rule.

(15) "Residential mortgage loan" means a loan made primarily for personal, family, or household use and primarily secured by a security interest on residential real property located in this state.

(16) "Residential real property" means real property located in this state improved by a one (1) to four (4) family dwelling.

(17) "Truth in lending act" means the act set forth in 15 U.S.C. section 1601 et seq., as amended to and including January 1, 2004<u>5</u>, or a subsequent date if so defined by administrative rule.

(18) "Mortgage lending activities" means for compensation or gain, either directly or indirectly, accepting or offering to accept applica-

tions for residential mortgage loans, assisting or offering to assist in the preparation of an application for a residential mortgage loan.

(19) "Mortgage brokering activities" means for 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, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans.

(20) "Loan origination activities" means for compensation or gain, either directly or indirectly, engaging in any of the following activities while representing or acting on behalf of a mortgage broker or mortgage lender:

(a) Soliciting, accepting, or offering to accept an application for a residential mortgage loan;

(b) Assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application; or

(c) Negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

Approved April 5, 2005.

CHAPTER 263
(H.B. No. 74)

AN ACT

RELATING TO THE IDAHO CREDIT CODE; AMENDING SECTION 28-41-302, IDAHO CODE, TO UPDATE REFERENCES TO FEDERAL PROVISIONS.

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

SECTION 1. That Section 28-41-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-302. FEDERAL CONSUMER CREDIT PROTECTION ACT -- DEFINED. In this act "Federal Consumer Credit Protection Act" means the consumer credit protection act, Public Law 90-321; 82 Stat. 146, as amended, to and including January 1, 2004~~5~~, or a subsequent date if so defined by administrative rule, and includes regulations issued pursuant to that act, as amended to and including January 1, 2004~~5~~, or a subsequent date if so defined by administrative rule.

Approved April 5, 2005.

CHAPTER 264
(H.B. No. 85, As Amended)

AN ACT

RELATING TO REPORTS OF THE IDAHO STATE RACING COMMISSION; AMENDING SECTION 54-2505, IDAHO CODE, TO CLARIFY THE CONTENT OF THE REPORT TO BE FILED.

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

SECTION 1. 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 ~~December~~ 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(3), 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.

Approved April 5, 2005.

CHAPTER 265
(H.B. No. 88)

AN ACT

RELATING TO THE DEPARTMENT OF FINANCE; REPEALING SECTIONS 67-2750 THROUGH 67-2764, IDAHO CODE, RELATING TO THE IDAHO CONTINUING-CARE DISCLOSURE ACT; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2750, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2751, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2752, IDAHO CODE, TO SET FORTH PROHIBITED CONDUCT; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2753, IDAHO CODE, TO PROHIBIT THE EMPLOYMENT OR AFFILIATION OF CERTAIN PERSONS; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2754, IDAHO CODE, TO SET FORTH THE POWERS OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2755, IDAHO CODE, TO PROVIDE FOR INJUNCTIONS AND OTHER REMEDIES; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2756, IDAHO CODE, TO PROVIDE FOR CUSTOMER INDEMNIFICATION; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2757, IDAHO CODE, TO PROVIDE FOR THE INSTITUTION OF CRIMINAL PROCEEDINGS; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2758, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES AND TO LIMIT ACTIONS; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2759, IDAHO CODE, TO PROVIDE THAT CRIMINAL PUNISHMENT IS NOT EXCLUSIVE; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2760, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW OF ORDERS; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2761, IDAHO CODE, TO PROVIDE FOR ADMINISTRATION; AMENDING CHAPTER

27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2762, IDAHO CODE, TO PROVIDE FOR ADMINISTRATIVE PUBLIC HEARINGS AND TO PROVIDE AN EXCEPTION; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 37, TITLE 26, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF PURPOSE, TO DEFINE TERMS, TO PROVIDE FOR REGISTRATION AND ANNUAL FEES, TO REQUIRE DISCLOSURE STATEMENTS OF FINANCIAL RESPONSIBILITY, TO PROVIDE FOR SPECIFICATION FOR RESIDENCE CONTRACTS, TO PROVIDE FOR ESCROWS, TRUSTS, SURETY BONDS AND COLLECTION OF DEPOSITS, TO PROHIBIT CROSS-COLLATERALIZATION, TO PROVIDE FOR AUDITS, TO PROVIDE CIVIL LIABILITY, TO PROVIDE FOR INJUNCTIONS, TO SET FORTH GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION, TO PROVIDE FOR OATHS AND SUBPOENAS, TO PROVIDE PUNISHMENT, TO SPECIFY EXEMPTION FROM CRIMINAL PROSECUTION FOR TESTIMONY, TO PROVIDE CRIMINAL PENALTIES AND TO PROVIDE FOR REGULATORY AUTHORITY; AMENDING SECTION 26-1111, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 22, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2226, IDAHO CODE, TO SET FORTH PROHIBITED CONDUCT; AMENDING SECTION 26-2501, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 26-2505, IDAHO CODE, TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT BY THE DIRECTOR OF THE IDAHO DEPARTMENT OF FINANCE AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Sections 67-2750 through 67-2764, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 27, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto a NEW SECTION, to be known and designated as Section 67-2750, Idaho Code, and to read as follows:

67-2750. SHORT TITLE. This act shall be known and may be cited as the "Idaho Financial Fraud Prevention Act."

SECTION 3. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2751, Idaho Code, and 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.

SECTION 4. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2752, Idaho Code, and to read as follows:

67-2752. FINANCIAL FRAUD ILLEGAL. It is unlawful for any person, directly or indirectly:

(1) To employ any device, scheme or artifice to defraud a financial institution;

(2) To obtain or attempt to obtain money, funds, credits, assets, securities, or other property owned by, or under the custody or control of a financial institution by means of false or fraudulent pretenses, representations, or promises or through the use of any fraudulent device, scheme, artifice, or fraudulent monetary instrument;

(3) To falsely represent that a person is a financial institution or a representative of a financial institution, for the purpose of obtaining money, goods, or services from any person;

(4) To obtain or record or attempt to obtain or record, personal identifying information of another person without the authorization of that person, for the purpose of obtaining money, goods, or services from any person, through a false or fraudulent representation that the person doing so is a financial institution. "Personal identifying information" has the same meaning as set forth in section 18-3122(10), Idaho Code, or any successor to that section;

(5) To fraudulently make, emboss, encode, or use a financial transaction card, financial transaction card account number, personal identification code or credit card sales draft, as defined in sections 18-3122, 18-3123, 18-3124 and 18-3125A, Idaho Code, or any successors to those sections, for the purpose of obtaining money, goods, or services from any person; or

(6) While serving as an employee, agent or representative of a financial institution, to obtain or attempt to obtain the money, funds, credits, assets, securities, or other property owned by, held by, or under the custody or control of, the financial institution by means of false or fraudulent pretenses, representations, or promises or by means of any fraudulent device, scheme or artifice, or through the use of a fraudulent monetary instrument.

SECTION 5. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2753, Idaho Code, and to read as follows:

67-2753. EMPLOYMENT OR AFFILIATION OF CERTAIN PERSONS. Except with the prior written consent of the director, no person who has been convicted of, or who has pled nolo contendre to, any criminal offense involving dishonesty, breach of trust or fiduciary duty, or money laundering, or who has been granted a withheld judgment based on such offense, or who has been found to have violated this act, shall seek

employment with, accept employment by, become employed by, or continue in their employment with an Idaho state chartered or licensed financial institution.

SECTION 6. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2754, Idaho Code, and 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 multistate 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.

SECTION 7. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2755, Idaho Code, and to read as follows:

67-2755. INJUNCTIONS -- OTHER REMEDIES. Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or any rule or order hereunder, he may in his discretion:

(1) Order the person to cease and desist from the violation or attempted violation of any provision of this act, rule or order hereunder, if, in the determination of the director, it is necessary to protect any financial institution or the public, or a person is violating or is about to violate this act, or other good cause justifies the same, without prior notice to the person or opportunity for hearing.

(2) Order the person to cease and desist from the violation or attempted violation of any provision of this act, rule or order hereunder and, after giving reasonable notice and opportunity for a hearing, issue the following:

(a) An order restoring to any financial institution or person in interest any consideration, funds or property which may have been acquired or transferred in violation of this act;

(b) An order that the person violating this act, or any rule or order hereunder, pay a civil penalty to the department of finance in an amount not to exceed five thousand dollars ($5,000) for each violation. In the event a person violating this act knowingly accepts money representing (i) equity in a person's home, (ii) a withdrawal from any individual retirement account or similar account or (iii) a withdrawal from any qualified retirement plan as defined in the Internal Revenue Code, that person may be ordered by the director to pay a civil penalty to the department of finance in an amount not to exceed ten thousand dollars ($10,000) for each violation.

(c) In addition to the penalties set forth in paragraph (b) of this subsection, in the event a person violating this act has knowledge that the victim is an elder or dependent adult, that person may be ordered by the director to pay a civil penalty to the department of finance in an amount not to exceed ten thousand dollars ($10,000) for each violation. As used in this section, "elder" means any person who is sixty-five (65) years of age or older. As used in this section, "dependent adult" means any person who is between the ages of eighteen (18) and sixty-four (64) years, who has physical or mental limitations which restrict the person's ability to carry out normal activities or to protect the person's rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age or illness;

(d) An order that the person violating this act, or any rule or order hereunder, pay costs, which in the discretion of the director may include an amount representing reasonable attorney's fees and

reimbursements of investigative efforts; or

(e) An order granting other appropriate remedies.

(3) Enter into a consent order, or other administrative order or agreement, setting forth requirements, limitations and restrictions on the future conduct or practices of a person violating this act. A consent order, or other administrative order or agreement entered into pursuant to this act, may include assessment of any of the penalties authorized in subsection (2) of this section.

(4) Bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon a showing that a person has engaged or is about to engage in any act or practice constituting a violation of this act or any rule hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The director shall not be required to furnish a bond.

(5) In addition to the remedies in subsection (4) of this section, the director, in his discretion and upon a showing in any court of competent jurisdiction that a person has violated the provisions of this act or any rule or order hereunder, may be granted the following additional remedies:

(a) An order restoring to any financial institution or to any person in interest any consideration, funds or property which may have been acquired or transferred in violation of this act;

(b) An order that the person violating this act, rules or any order hereunder pay a civil penalty to the department of finance in an amount not to exceed ten thousand dollars ($10,000) for each violation;

(c) An order awarding the director all costs incurred, which in the discretion of the court may include an amount representing reasonable attorney's fees and reimbursements for investigative efforts; or

(d) An order granting other appropriate remedies.

(6) Liability for sanctions, both civil and criminal, and personal jurisdiction shall extend to all persons who engaged in violations or attempted violations or who aided and abetted others or conspired with others in violations or attempted violations of this act and rules and orders hereunder. Officers and directors of corporations shall not be exempt from actions brought for violations, merely because of their capacity as officers or directors, if they have participated in acts making the violations possible or if they have actual or constructive knowledge of violations by the corporation while acting as an officer, director or member.

SECTION 8. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2756, Idaho Code, and to read as follows:

67-2756. CUSTOMER INDEMNIFICATION. In the event a financial institution indemnifies its customer for damages caused by a violation of this act, or assumes the loss caused its customer by a violation of this act, the financial institution shall be entitled to sue the violator, at law or in equity, to recover any actual damages suffered by its customer, plus costs and attorney's fees incurred in the bringing of the action.

SECTION 9. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2757, Idaho Code, and to read as follows:

67-2757. INSTITUTION OF CRIMINAL PROCEEDINGS. The director may refer such evidence as may be available concerning violations of this act or any rule or order hereunder to the attorney general, prosecuting attorney, United States attorney, county, state or federal law enforcement agency, or foreign law enforcement agency or prosecutor. Any county prosecuting attorney, or the attorney general may, in his discretion, with or without such a referral, institute appropriate criminal proceedings under this act.

SECTION 10. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2758, Idaho Code, and to read as follows:

67-2758. CRIMINAL PENALTIES FOR VIOLATIONS -- LIMITATION OF ACTIONS. (1) Any person who violates any provision of this act or who violates any rule or order hereunder, shall be guilty of a felony and, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned not more than three (3) years, or both.

(2) In the event a person violates any provision of this act or any rule or order hereunder, and accepts money under any of the circumstances described in section 67-2755(2)(b), Idaho Code, or accepts money under any of the facts described in section 67-2755(2)(c), Idaho Code, shall, upon conviction, be fined not more than ten thousand dollars ($10,000) or imprisoned not more than five (5) years for each violation, or both.

(3) No indictment or information may be returned under this act more than five (5) years after the alleged violation.

SECTION 11. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2759, Idaho Code, and to read as follows:

67-2759. CRIMINAL PUNISHMENT UNDER THIS ACT NOT EXCLUSIVE. Nothing in this act limits the power of the state or any other law enforcement agency to proceed against and punish any person for any conduct which constitutes a crime under any applicable law, statute, code or ordinance.

SECTION 12. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2760, Idaho Code, and to read as follows:

67-2760. JUDICIAL REVIEW OF ORDERS. Any person aggrieved by a final order of the director may obtain judicial review of that order pursuant to the provisions of chapter 52, title 67, Idaho Code.

SECTION 13. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2761, Idaho Code, and to read as follows:

67-2761. ADMINISTRATION OF ACT -- RULES, FORMS AND ORDERS. The administration of the provisions of this act shall be under the general supervision and control of the director. The director may from time to time make, amend and rescind such rules, forms and orders as are necessary to carry out the provisions of this act. No rule or form may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of financial institutions and consistent with the purposes of this act.

SECTION 14. That Chapter 27, Title 67, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 67-2762, Idaho Code, and to read as follows:

67-2762. ADMINISTRATIVE PUBLIC HEARINGS -- EXCEPTION. Every hearing in an administrative proceeding shall be public unless the director in his discretion grants a request that the hearing be conducted privately.

SECTION 15. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 37, Title 26, Idaho Code, and to read as follows:

CHAPTER 37
IDAHO CONTINUING-CARE DISCLOSURE ACT

26-3701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Continuing-Care Disclosure Act."

26-3702. STATEMENT OF PURPOSE. The legislature recognizes that continuing care communities have become an important and necessary alternative for the long-term residential, social and health maintenance needs for many of the state's elderly citizens.

The legislature finds and declares that tragic consequences can result to citizens of the state when a provider of services under a continuing care agreement becomes insolvent or unable to provide responsible care. The legislature recognizes the need for full disclosure with respect to the terms of agreements between prospective residents and the provider and the operations of such providers. Accordingly, the legislature has determined that these providers should be regulated in accordance with the provisions of this chapter. The provisions of this chapter apply equally to for-profit and not-for-profit provider organizations. The provisions of this chapter shall be the minimum requirements to be imposed upon any person, association or organization offering or providing continuing care as set forth in this chapter.

26-3703. DEFINITIONS. As used in this chapter:

(1) "Continuing care" means the furnishing to an individual, other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, pursuant to an agreement requiring an entrance fee.

(2) "Department" means the department of finance.

(3) "Director" means the director of the department of finance or his authorized designee.

(4) "Entrance fee" means an initial or deferred transfer to a pro-

vider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility. A fee which is less than the sum of the regular periodic charges for six (6) months of residency will not be considered to be an entrance fee for the purposes of this chapter.

(5) "Facility" means the place or places in which a person undertakes to provide continuing care to an individual.

(6) "Living unit" means a room, apartment, cottage or other area within a facility set aside for the exclusive use or control of one (1) or more identified individuals.

(7) "Provider" means the promoter, developer, or owner of a continuing care facility, whether a natural person, partnership, unincorporated association, trust, or corporation, or any other person, or that person's successors or assigns that solicits or undertakes to provide continuing care to the public under a continuing care facility contract.

(8) "Resident" means an individual entitled to receive continuing care in a facility.

26-3704. REGISTRATION -- ANNUAL FEE. Each provider who provides continuing care services in this state shall register with the director on forms provided by the department and shall pay an annual registration fee. Such registration fee shall be fixed by the director but shall not exceed five hundred dollars ($500) per facility. No provider shall be allowed to operate a facility until so registered and until the provider has filed with the director a disclosure statement as set forth in section 26-3705, Idaho Code. All fees received by the director shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

26-3705. DISCLOSURE STATEMENT OF FINANCIAL RESPONSIBILITY. As a condition to registration with the department, each provider must file evidence of financial responsibility. Said evidence shall be on registration forms provided by the director. The registration forms shall request such information as the director, in his discretion, shall deem appropriate to carry out the functions of this chapter. The director shall require, however, the following information to be included on the provider's statement of financial responsibility:

(1) The names and business addresses of the officers, directors, trustees, managing or general partners, any person having a ten percent (10%) or greater equity or beneficial interest in the provider, and any person who will be managing the facility on a day-to-day basis, and a description of these persons' interests in or occupations with the provider.

(2) Information as follows on all persons named in response to the information required in subsection (1) of this section:

(a) A description of the business experience of this person, if any, in the operation or management of similar facilities;

(b) The name and address of any professional service, firm, association, trust, partnership, or corporation in which this person has, or which has in this person, a ten percent (10%) or greater interest and which it is presently intended shall currently or in the future provide goods, leases, or services to the facility, or to residents of the facility, of an aggregate value of five hundred dollars ($500) or more within any year, including a description of the

goods, leases, or services and the probable or anticipated cost thereof to the facility, provider, or residents or a statement that this cost cannot presently be estimated; and

(c) A description of any matter in which the person: (i) has been convicted, or found guilty of, or received a withheld judgment for a felony, or been held liable, or enjoined in a civil action by final judgment, which civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or (ii) is subject to a currently effective injunctive or restrictive court order in any action involving fraud, embezzlement, fraudulent conversion, or misappropriation of property; or (iii) within the past five (5) years, had any local, state or federal license or permit suspended or revoked as a result of fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(3) A statement as to whether the provider is, or is not affiliated with, an eleemosynary or other nonprofit organization, the extent of the affiliation, if any, the extent to which the affiliate organization will be responsible for the financial and contract obligations of the provider, and the provision of the federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of income tax.

(4) A detailed description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include, but not be limited to:

(a) The circumstances under which the resident will be permitted to remain in the facility in the event of financial difficulties of the resident;

(b) The terms and conditions under which a contract for continuing care at the facility may be canceled by the provider or by the resident, and the conditions under which all or any portion of the entrance fee will be refunded in the event of cancellation of the contract by the provider or by the resident or in the event of the death of the resident prior to or following occupancy of a living unit;

(c) The manner by which the provider may adjust periodic charges or other recurring fees and the limitations on these adjustments, if any; and, if the facility is already in operation, or if the provider or manager operates one (1) or more similar continuing care locations within this state, tables shall be included showing the frequency and average dollar amount of each increase in periodic charges, or other recurring fees at each facility or location for the previous five (5) years, or such shorter period as the facility or location may have been operated by the provider or manager.

(5) The health and financial conditions required for an individual to be accepted as a resident and to continue as a resident once accepted, including the effect of any change in the health or financial condition of a person between the date of entering a contract for continuing care and the date of initial occupancy of a living unit by that person.

(6) The provisions that have been made or will be made to provide reserve funding or security to enable the provider to perform its obligations fully under contracts to provide continuing care at the facility, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which these funds will be invested,

and the names and experience of any individuals in the direct employment of the provider who will make the investment decisions.

(7) Certified financial statements of the provider, including (i) a balance sheet as of the end of the most recent fiscal year, and (ii) income statements for the three (3) most recent fiscal years of the provider or such shorter period of time as the provider shall have been in existence. The director shall only accept certified financial statements that have been prepared and certified by or under the direction of a certified public accountant. If the provider's fiscal year ended more than one hundred twenty (120) days prior to the date the disclosure statement is recorded, interim financial statements as of a date not more than ninety (90) days prior to the date of recording the statement shall be included, but need not be certified.

(8) A summary of a report of an actuary, updated every five (5) years, that estimates the capacity of the provider to meet its contract obligation to the residents. Disclosure statements of continuing care facilities established prior to January 1, 1988, do not need an actuary report or summary until January 1, 1993.

(9) If operation of the facility has not yet commenced, a detailed and itemized statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility. Said statements shall also include a detailed and itemized estimate of the funds, if any, that are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care.

(10) Pro forma annual income statements and balance sheets for the facility for a period of not less than five (5) fiscal years with supporting documentation as the director may, in his discretion, require.

(11) All material information relevant to a decision of a prospective resident to enter into a continuing care contract with the provider, whether or not specifically requested by the director.

(12) All other information required by the director.

(13) The cover page of the disclosure statement shall state, in a prominent location and in boldface type, the date of the disclosure statement, the last date through which that disclosure statement may be delivered if not earlier revised, and that the delivery of the disclosure statement to a contracting party before the execution of a contract for the provision of continuing care is required by this chapter but that the disclosure statement has not been reviewed or approved by any government agency or representative to ensure accuracy or completeness of the information set out.

(14) A copy of the standard form of contract for continuing care used by the provider shall be attached to and be considered a part of the disclosure statement.

26-3706. SPECIFICATION FOR RESIDENCE CONTRACTS. (1) In addition to such other provisions as may be considered proper to effectuate the purpose of any continuing care agreement, each agreement executed on and after the date of the adoption of this chapter shall be written in nontechnical language easily understood by a layperson and shall:

(a) Show the value of all property transferred, including donations, subscriptions, fees and any other amounts paid or payable by, or on behalf of, the resident or residents;

(b) Specify in detail all services which are to be provided by the provider to each resident;

(c) Describe the health and financial conditions upon which the provider may have the resident relinquish his space in the designated facility;

(d) State the fees and conditions that will apply if the resident marries while at the designated facility;

(e) Provide that the agreement may be canceled upon the giving of notice of cancellation of at least thirty (30) days by the resident. An agreement may be canceled by the provider if there has been a good faith determination in writing, signed by the medical director and the administrator of the facility, that a resident is a danger to himself or others;

(f) Provide in print no smaller than the largest type used in the body of said agreement, the terms governing the refund of any portion of the entrance fee;

(g) State the terms under which an agreement is canceled by the death of the resident. The agreement may contain a provision to the effect that, upon the death of the resident, the moneys paid for the continuing care of such resident shall be considered earned and become the property of the provider;

(h) Provide for advance notice to the resident, of not less than thirty (30) days, before any change in fees or charges or the scope of care or services may be effective, except for changes required by state or federal assistance programs;

(i) Provide that charges for care paid in one (1) lump sum shall not be increased or changed during the duration of the agreed upon care, except for changes required by state or federal assistance programs.

(2) A resident shall have the right to rescind a continuing care agreement, without penalty or forfeiture, within seven (7) days after making an initial deposit or executing the agreement. A resident shall not be required to move into the facility designated in the agreement before the expiration of the seven (7) day period.

(3) If a resident dies before occupancy date, or through illness, injury or incapacity is precluded from becoming a resident under the terms of the continuing care agreement, the agreement is automatically rescinded and the resident or his legal representative shall receive a full refund of all moneys paid to the facility, except those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum, signed by both parties to the agreement.

(4) No agreement for care shall permit dismissal or discharge of the resident from the facility providing care prior to the expiration of the agreement, without just cause for such a removal. Just cause may include, but not be limited to, a good faith determination in writing, signed by the medical director and the administrator of the facility that a resident is a danger to himself or others while remaining in the facility. Dismissal for just cause shall not affect the resident's qualification for a refund under the contract.

(5) No act, agreement or statement of any resident, or of any individual purchasing care for a resident under any agreement to furnish

care to the resident, shall constitute a valid waiver of any provision of this chapter intended for the benefit or protection of the resident or the individual purchasing care for the resident.

26-3707. ESCROW -- TRUST -- SURETY BOND -- COLLECTION OF DEPOSITS. (1) A provider shall establish an escrow account with a bank or a trust company, that is located in Idaho, agreed upon by the provider and the resident. The terms of this escrow account shall provide that the total amount of any entrance fee received by the provider prior to the date the resident is permitted to occupy a living unit in the facility be placed in this escrow account. These funds may be released only as follows:

(a) If the entrance fee applies to a living unit that has been previously occupied in the facility, the entrance fee shall be released to the provider when the living unit becomes available for occupancy by the new resident;

(b) If the entrance fee applies to a living unit which has not been previously occupied by any resident, the entrance fee shall be released to the provider when the escrow agent is satisfied that:

(i) Construction or purchase of the living unit has been completed and an occupancy permit, if applicable, covering the living unit has been issued by the local government having authority to issue such permits;

(ii) A commitment has been received by the provider for any permanent mortgage loan, long-term financing or other source of capital and any conditions of the commitment prior to disbursement of funds thereunder have been substantially satisfied; and

(iii) Aggregate entrance fees received or receivable by the provider pursuant to binding continuing care retirement community contracts, plus the anticipated proceeds of any first mortgage loan, long-term financing commitment, or other source of capital, are equal to not less than ninety percent (90%) of the aggregate cost of constructing or purchasing, equipping and furnishing the facility plus not less than ninety percent (90%) of the funds estimated in the statement of anticipated source and application of funds submitted by the provider as that part of the disclosure statement required in section 26-3705, Idaho Code, to be necessary to fund start-up losses and assure full performance of the obligations of the provider pursuant to continuing care retirement community contracts.

(2) Upon receipt by the escrow agent of a request by the provider for the release of these escrow funds, the escrow agent shall approve release of the funds within five (5) working days unless the escrow agent finds that the requirements of subsection (1) of this section have not been met and notifies the provider of the basis for this finding. The request for release of the escrow funds shall be accompanied by any documentation the fiduciary requires.

(3) If the provider fails to meet the requirements for release of funds held in this escrow account within a time period the escrow agent considers reasonable, these funds shall be returned by the escrow agent to the persons who have made payment to the provider. The escrow agent shall notify the provider of the length of this time period when the provider requests release of the funds.

(4) An entrance fee held in escrow may be returned by the escrow

agent to the person who made payment to the provider at any time upon receipt by the escrow agent of notice from the provider that this person is entitled to a refund of the entrance fee.

(5) In addition to the escrow requirement of this section, each provider shall provide a surety bond or an irrevocable letter of credit in a form acceptable to the department. Any surety bond offered as evidence of financial responsibility must be written by a company authorized to do business in this state. The bond must be in effect at any time that funds remain in escrow under the provisions of this section and shall be an amount not less than the aggregate value of all outstanding amounts in escrow.

26-3708. CROSS-COLLATERALIZATION PROHIBITED. No part of the entrance fee placed in escrow may be pledged by the provider as collateral for the purpose of securing loans for any purpose other than providing for the care of the resident.

26-3709. AUDITS. Each provider upon annual renewal of registration shall provide to the director certified audited reports of the financial condition of the facility and shall amend the disclosure required by section 26-3704, Idaho Code, as necessary. The annual audited reports shall be prepared by or under the supervision and direction of a certified public accountant according to generally accepted accounting principles and shall contain such additional information as may be required by the director. The annual renewal of registration shall be filed with the director not later than ninety (90) days after the close of the provider's fiscal year as used for state income tax purposes.

26-3710. CIVIL LIABILITY. (1) Any person who, as a provider, or on behalf of a provider:

(a) Enters into a contract for continuing care at a facility which has not registered under this chapter;

(b) Enters into a contract for continuing care at a facility without having first delivered a disclosure statement meeting the requirements of this chapter to the person contracting for such continuing care;

(c) Enters into a contract for continuing care at a facility with a person who has relied on a disclosure statement which contains a misstatement of a material fact or which omits a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading; or

(d) Engages in any fraudulent or deceptive practices in the provision of services to the resident, or prospective resident;

shall be deemed to have violated the terms of this chapter and shall be liable to the person contracting for such continuing care for damages and repayment of all fees paid to the provider, facility or person in violation of the provisions of this chapter, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care was entered into prior to discovery of the violation, misstatement or omission or the time the violation, misstatement or omission should reasonably have been discovered, together with interest thereon at the legal rate for judgments and court costs and reasonable attorney's fees.

(2) Liability under this section shall exist regardless of whether or not the provider or person liable had actual knowledge of the misstatement or omission.

(3) A person may not file or maintain an action under this section if the person, before filing the action, received an offer, approved by the director, to refund all amounts paid the provider, facility or person in violation of the provisions of this chapter together with interest from the date of payment, less the reasonable value of care and lodging provided prior to the receipt of the offer and the person failed to accept the offer within thirty (30) days of receipt. At the time a provider makes a written offer of rescission, the provider shall file a copy with the director. The rescission offer shall recite the provisions of this section.

(4) An action shall not be maintained to enforce a liability created under this chapter unless brought before the expiration of six (6) years after the execution of the contract for continuing care which gave rise to the violation.

(5) Except as expressly provided in this chapter, civil liability in favor of a private party shall not arise against a person, by implication, from or as a result of the violation of this chapter or a rule or order promulgated or issued under this chapter. This chapter shall not limit a liability which may exist by virtue of any other statute or under common law if this chapter were not in effect.

26-3711. INJUNCTIONS. Whenever it appears to the director that any person has engaged in, or is about to engage in, any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may:

(1) Issue an order directed at any such person requiring such person to cease and desist from engaging in such act or practice.

(2) Bring an action in any court which has appropriate jurisdiction to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a showing that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or any rule or directive of the director promulgated hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director shall not be required to post a bond.

26-3712. DENIAL, SUSPENSION, REVOCATION OF REGISTRATION -- GROUNDS. The director may by order deny, suspend or revoke registration of any provider:

(1) If he finds the order is in the public interest; or

(2) Any of the conditions described in section 26-3705(2)(c), Idaho Code, apply to the provider.

In addition the director may impose an administrative fine in an amount not to exceed five thousand dollars ($5,000) for each violation of the provisions of this chapter.

Prior to the revocation or suspension of any registration, the provider shall be given an opportunity for an appropriate contested case in accordance with the provisions of chapter 52, title 67, Idaho Code. Judicial review of the final order of the director shall be governed by chapter 52, title 67, Idaho Code.

26-3713. OATHS -- SUBPOENAS -- PUNISHMENT -- EXEMPTION FROM CRIMINAL PROSECUTION FOR TESTIMONY. For the purpose of any investigation or proceeding under this chapter the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the director deems relevant or material to the inquiry.

(1) In case of contumacy or refusal to obey a subpoena 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, there to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question and any failure to obey such order of the court may be punished by the court as a contempt of court.

(2) No person is excused from attending and testifying, from producing any document or record before the director or from 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.

26-3714. CRIMINAL PENALTIES. (1) Any person who willfully and knowingly violates any provision of this chapter, or any rule or order under the chapter, shall be guilty of a misdemeanor and be sentenced to pay a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one (1) year in the county jail or both for each violation.

(2) The director may refer such evidence as is available concerning violations of the provisions of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney who may, with or without such a reference, institute the appropriate criminal proceedings under this chapter.

(3) Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

26-3715. REGULATORY AUTHORITY. The director shall have the authority to adopt, amend or repeal such rules as are reasonably necessary for the enforcement of the provisions of this chapter.

SECTION 16. That Section 26-1111, Idaho Code, be, and the same is hereby amended to read as follows:

26-1111. RECORDS NOT PUBLIC. (1) The department of finance shall keep proper books and records of all regulatory acts, matters and things done by it under the provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 21, 26, 32, 33, 34, 35, ~~and~~ 36 <u>and 37</u>, title 26, Idaho Code, as records of its office, but the same shall be subject to disclosure according to chapter 3, title 9, Idaho Code, except as otherwise

provided in this section and in sections 26-1112 and 67-2743E, Idaho Code.

(2) All written communications and copies thereof, between the department, the director, department employees and any bank, bank holding company, trust company, savings and loan association and credit union which relate in any manner to the examination or condition of the financial institution, are the property of the department of finance and, if acquired by any person, shall be returned to the department upon written demand.

(3) (a) The director of the department of finance, any federal bank or other financial institution regulatory or supervisory agency, and any bank, bank holding company, trust company, savings and loan association, or credit union incorporated or chartered under title 26, Idaho Code, or under federal law or the law of any state and doing business in the state of Idaho, shall each have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, and the contents of any documents relating to any confidential communications, between the financial institution and the department of finance or federal bank or financial institution regulatory or supervisory agency made during the regulatory relationship.

(b) A communication is confidential if it is made during the regulatory relationship between the department of finance or the federal bank or other financial institution regulatory or supervisory agency and any such bank, bank holding company, trust company, savings and loan association or credit union, and if the communication is not designed or intended for disclosure to any other parties.

(c) The privilege may be claimed by the financial institution or by the department of finance or the federal bank or other financial institution regulatory or supervisory agency, or by the lawyer for either. The privilege may be waived only in accordance with this section and sections 26-1112 and 67-2743E, Idaho Code.

(d) The director of the department of finance or the appropriate officer or employee of the federal bank or other financial institution regulatory or supervisory agency may disclose confidential communications between the department or agency and financial institutions to the court, in camera, in a civil action. Such disclosure shall also be a privileged communication and the privilege may be claimed by the director, officer or employee or his lawyer.

(e) No sanction may be imposed upon any financial institution as a result of the claim of a privilege by the financial institution or the director of the department of finance or the officer or employee of the federal supervisory agency under this section.

SECTION 17. That Chapter 22, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2226, Idaho Code, and to read as follows:

26-2226. FALSE OR FRAUDULENT DEBT REDUCTION AND ELIMINATION PRACTICES. (1) No person shall obtain or attempt to obtain a fee, compensation or consideration from a person through a false or fraudulent representation or statement that a debt, loan, or extension of credit could or would be eliminated, reduced or substituted, if the representation or statement is false or misleading or has the tendency or capacity to be

misleading, or if the person making the representation or statement does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.

(2) (a) Whenever it appears to the director that a person has violated subsection (1) of this section, the director shall have the powers and remedies set forth in sections 67-2754 and 67-2755, Idaho Code, as well as the powers and remedies found in this chapter, as to any such violation.

(b) Any person who violates subsection (1) of this section shall be subject to the criminal proceedings and penalties set forth in sections 67-2757, 67-2758 and 67-2759, Idaho Code, as well as the criminal proceedings and penalties provided in this chapter.

SECTION 18. That Section 26-2501, Idaho Code, be, and the same is hereby amended to read as follows:

26-2501. DEFINITION. "Loan broker" means any person, corporation, partnership or other business entity which offers for compensation, in this state, to arrange for a loan or other extension of credit. "Loan broker" includes a person, corporation, partnership or other business entity which, for compensation or for no compensation, advertises, solicits, or offers to make or to obtain for others a loan or other extension of credit.

SECTION 19. That Section 26-2505, Idaho Code, be, and the same is hereby amended to read as follows:

26-2505. ADMINISTRATION -- ENFORCEMENT -- ACTIONS FOR MONETARY RELIEF. (1) The director of the Idaho department of finance shall have the power to administer and enforce the provisions of this chapter. Whenever it appears to the director that a loan broker has violated section 26-2503, Idaho Code, the director shall have the powers and remedies set forth in sections 67-2754, 67-2755, 67-2757, 67-2758 and 67-2759, Idaho Code.

(2) The receiving of any fee, interest or other charge in violation of this chapter shall also be deemed an unfair and deceptive practice in violation of the Idaho ~~C~~consumer ~~P~~protection ~~A~~act; provided however, no person aggrieved by a violation of this chapter can recover or attempt to recover monetary relief under both this chapter and the Idaho ~~C~~consumer ~~P~~protection ~~A~~act, but rather such person must elect whether to file an action pursuant to this chapter or the Idaho ~~C~~consumer ~~P~~protection ~~A~~act.

SECTION 20. 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 5, 2005.

CHAPTER 266
(H.B. No. 135)

AN ACT
RELATING TO ARCHITECTS; AMENDING SECTION 54-309, IDAHO CODE, TO REVISE AN EXEMPTION APPLICABLE TO THE RENDERING OF ARCHITECTURAL SERVICES FOR CERTAIN BUILDINGS.

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

SECTION 1. That Section 54-309, Idaho Code, be, and the same is hereby amended to read as follows:

54-309. DEFINITIONS -- LIMITATION ON APPLICATION. (1) Within the meaning and intent of this chapter, the following words shall be defined as follows:

(a) "Architect" means a person who engages in the practice of architecture as herein defined, and is licensed under the provisions of this chapter.

(b) "Building" is an enclosure including improvements related thereto, which has as its principal purpose the adaptation of space for occupancy, or habitation by human beings.

(c) "Practice of architecture" consists of rendering or offering those services hereinafter described, in connection with the design, construction, enlargement, or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice and consultation; providing preliminary studies; architectural designs, drawings and specifications; technical submissions; and, administration of construction contracts.

(d) "Technical submissions" involving the practice of architecture, consist of designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

(2) Nothing contained in this chapter shall be held or construed to have any application to, or to prevent or affect the following:

(a) The practice of engineering or any other profession or trade for which a license is required under any law of this state, or the practice of consultants, officers, and employees of the United States while engaged solely in the practice of architecture for said government.

(b) Draftsmen, students, clerks of work, project representatives, and others working under the supervision of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control, or supervision of their supervisors, or to prevent the employment of clerks of work or inspectors of buildings paid by the owners from acting, if under the control or direction of a licensed architect who has prepared the drawings and specifications for the building.

(c) The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building, where such building is to be, or is used as a single or multiple family residence not exceeding three (3) units or two (2) stories in height, or as a farm building; or for the purpose of outbuildings or

auxiliary buildings in connection with such residential or farm premises.

(d) The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building which does not involve the public health or safety.

(e) The preparation of shop drawings by persons other than architects for use in connection with the execution of their work; or the preparation of drawings of fixtures, or other appliances or equipment, or for any work necessary to provide for their installation.

(f) Expert consultation rendered to an architect by a consultant, whether licensed or not, employed by the architect to consult, advise, and assist as long as the architect approves, adopts and is responsible for the results of such consultation, advice and assistance.

(g) An intern working under the supervision of a licensed architect, including the use of the title "architectural intern," as may be established and limited by board rule.

Approved April 5, 2005.

CHAPTER 267
(H.B. No. 161)

AN ACT

RELATING TO SURPLUS LINE INSURERS; AMENDING SECTION 41-1218, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING FOR LICENSE REVOCATION BY THE DIRECTOR AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-1218, Idaho Code, be, and the same is hereby amended to read as follows:

41-1218. ELIGIBLE SURPLUS LINE INSURERS -- PENALTY FOR VIOLATION. (1) For any violation of section 41-1217, Idaho Code, the broker or a person who independently procures its own insurance shall, upon conviction thereof, be guilty of a misdemeanor punishable as provided in section 41-117, Idaho Code (general penalty). ~~If the director finds, after hearing, that the broker has violated such section he shall revoke all licenses held by him under this code, and shall not again license such individual under this code within a period of two (2) years after such revocation became final.~~

(2) The director may impose an administrative penalty not to exceed fifteen thousand dollars ($15,000), for deposit in the general account of the state of Idaho, upon any person or entity who transacts or who attempts to transact insurance as a surplus lines insurer in violation of any provision of chapter 12, title 41, Idaho Code. Failure of any such person or entity to pay a fine imposed pursuant to the provisions of this section shall authorize the director to seek enforcement of the fine, and any associated costs and attorney's fees related to bringing the action, in any district court of this state.

Approved April 5, 2005.

CHAPTER 268
(H.B. No. 162)

AN ACT

RELATING TO INSURANCE GUARANTY ASSOCIATIONS; AMENDING SECTION 41-3608, IDAHO CODE, TO REVISE THE POWERS OF ASSOCIATIONS; AND AMENDING SECTION 41-3616, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO CREDITS FOR ASSESSMENTS PAID.

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

SECTION 1. That Section 41-3608, Idaho Code, be, and the same is hereby amended to read as follows:

41-3608. OBLIGATIONS AND POWERS OF ASSOCIATION. (1) The association shall:

(a) Be obligated to pay covered claims existing prior to the order of liquidation arising within thirty (30) days after the order of liquidation, or before the policy expiration date if less than thirty (30) days after the order of liquidation, or before the insured replaces the policy or causes its cancellation, if he does so within thirty (30) days of the order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:

(i) The full amount of a covered claim for benefits under a worker's compensation insurance coverage;

(ii) An amount not exceeding ten thousand dollars ($10,000) per policy for covered claim for the return of unearned premium;

(iii) An amount not exceeding three hundred thousand dollars ($300,000) per claim for all other covered claims.

(b) In no event shall the association be obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after the earlier of: (i) eighteen (18) months after the date of the order of liquidation, or (ii) the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer and shall not include any claim filed with the association or a liquidator for protection afforded under the insured policy for incurred-but-not-reported losses. Any obligation of the association to defend an insured shall cease upon the association's payment by settlement releasing the insured or on a judgment of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit.

(c) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent including, but not limited to, the right to pursue and retain salvage and subrogation recoverable on paid covered claim obligations.

(d) Assess member insurers separately for amounts necessary to pay

the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance covered by the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance covered by the account. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any one (1) year an amount greater than one percent (1%) of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association in the account, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it deems reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account.

(e) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested. The association shall have the right to appoint or substitute and to direct legal counsel retained under liability insurance policies for the defense of covered claims.

(f) Handle claims through its employees or through one (1) or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(2) The association may:

(a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.
(b) Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.
(c) Sue or be sued, and such power to sue includes the power and right to intervene as a party before any court that has jurisdiction over the insolvent insurer as defined by this chapter.
(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this chapter.
(e) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.
(f) Refund to the member insurers in proportion to the contribution of each member insurer ~~to that account~~ that amount ~~by which the assets of the account exceed the liabilities, if, at the end of any calendar year,~~ which, in the opinion of the board of directors, ~~finds that the assets of the association exceed the liabilities as estimated by the board of directors for the coming year~~ will not be needed for the purposes of this chapter within two (2) years from the date the association receives the refund from the receivership.

SECTION 2. That Section 41-3616, Idaho Code, be, and the same is hereby amended to read as follows:

41-3616. CREDITS FOR ASSESSMENTS PAID. (1) A member insurer may offset against its premium tax liability to this state under section 41-402, Idaho Code, an assessment described in subsection (1)(d) of section 41-3608, Idaho Code. An insurer that is exempt from the premium tax imposed by section 41-402, Idaho Code, may offset its premium tax liability to the industrial administration fund. An offset is allowable to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid. An allowable offset, or portion thereof, not used in any calendar year cannot be carried over or back to any other year.

(2) Notwithstanding any provision to the contrary in section 41-3608(2)(f), Idaho Code, ~~A~~any sums acquired by refund~~, pursuant to subsection (2)(f) of section 41-3608, Idaho Code,~~ from insurance company receiverships by the association which have heretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and ~~are~~ which, in the opinion of the board of directors, will not ~~then~~ be needed for the purposes of this ~~act~~ chapter within two (2) years from the date the association receives the refund from the receivership, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the state general fund.

Approved April 5, 2005.

CHAPTER 269
(H.B. No. 208, As Amended)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1305, IDAHO CODE, TO INCREASE THE AMOUNT OF PROPERTY DAMAGE REQUIRED TO INITIATE A REPORT TO THE LOCAL POLICE DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-1305, Idaho Code, be, and the same is hereby amended to read as follows:

49-1305. IMMEDIATE NOTICE OF ACCIDENTS. (1) The driver of a vehicle involved in an accident resulting in injury to or death of any person, or damage to the property of any one (1) person in excess of ~~seven~~ one thousand five hundred ~~and fifty~~ dollars ($~~7~~1,500) shall immediately, by the quickest means of communication, give notice of the accident to the local police department if the accident occurs within a city, otherwise to the office of the county sheriff or the nearest office of the state police.

(2) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required herein, and there was another occupant in the vehicle at the time of the accident capable of doing so, the occupant shall give or cause to be given the notice not given by the driver.

SECTION 2. This act shall be in full force and effect on and after January 1, 2006.

Approved April 5, 2005.

CHAPTER 270
(H.B. No. 213)

AN ACT

RELATING TO PUBLIC SECURITIES OF HEALTH INSTITUTIONS; AMENDING CHAPTER 14, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1447A, IDAHO CODE, TO AUTHORIZE INTEREST RATE EXCHANGE AND OTHER HEDGE AGREEMENTS TO BE USED IN CONNECTION WITH THE INDEBTEDNESS AND LEASE OBLIGATIONS OF THE IDAHO HEALTH FACILITIES AUTHORITY AND COUNTY AND DISTRICT HOSPITALS IN THE MANNER AND UNDER THE CONDITIONS SPECIFIED.

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

SECTION 1. That Chapter 14, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1447A, Idaho Code, and to read as follows:

39-1447A. PUBLIC SECURITIES OF HEALTH INSTITUTIONS -- INTEREST EXCHANGE AGREEMENTS. (1) As used in this section:

(a) "Authorized entity" means any of the following entities: the authority, a county that has created a hospital board under chapter

36, title 31, Idaho Code, and that owns and operates a county hospital or health facility, or a hospital district created and existing under section 39-1331, et seq., Idaho Code, that owns and operates a hospital or health facility.

(b) "Public securities" means bonds, notes, debentures, interim certificates, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements, or certificates of participation therein, issued or entered into by or on behalf of an authorized entity in accordance with applicable law for the purpose of financing health institutions, and including specifically leases between the authority and counties authorized by section 31-836, Idaho Code; and between the authority and hospital districts authorized by section 39-1339, Idaho Code.

(2) An authorized entity that has issued or entered into, or proposes to issue or enter into, public securities may enter into an agreement for an exchange of payments based on interest rates or for a hedge of interest rates as provided in this section if the authorized entity finds that such an agreement would be in the best interest of the authorized entity.

(3) An authorized entity may enter into an agreement to exchange payments based on interest rates or to hedge interest rates only if:

(a) The long-term debt obligations of the person or entity with whom the authorized entity enters into the agreement are rated in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; or

(b) The obligations pursuant to the agreement of the person or entity with whom the authorized entity enters into the agreement are either:

(i) Guaranteed by a person or entity whose long-term debt obligations are rated in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; or

(ii) Collateralized by obligations deposited with the authorized entity or an agent of the authorized entity which would: (A) be legal investment for such authorized entity and is in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; and (B) have a market value at least equal to the amount the person or entity would be required to pay to the authorized entity if the agreement was terminated before its final payment date, excluding any costs, legal fees or consequential damages.

(4) An authorized entity may agree, with respect to public securities that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a variable rate, to pay sums equal to interest at a fixed rate or rates or at a different variable rate determined pursuant to a formula set forth in the agreement on an amount not to exceed the principal amount of the public securities with respect to which the agreement is made, in exchange for an agreement to pay sums equal to interest on the same principal amount at a variable rate determined pursuant to a formula set forth in the agreement.

(5) An authorized entity may agree, with respect to public securi-

ties that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a fixed rate or rates, to pay sums equal to interest at a variable rate determined pursuant to a formula set forth in the agreement on an amount not to exceed the outstanding principal amount of the public securities with respect to which the agreement is made, in exchange for an agreement to pay sums equal to interest on the same principal amount at a fixed rate or rates set forth in the agreement.

(6) An authorized entity may, with respect to public securities that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a fixed rate or rates or at a variable rate or rates, or with respect to securities with respect to which it has entered into an interest rate exchange agreement as described in subsection (4) or (5) of this section, enter into an interest rate hedge agreement to hedge future interest rates including, without limitation, an interest rate cap agreement, an interest rate floor agreement or any combination thereof, on a specified principal sum in exchange for a sum of money or an agreement to pay sums equal to interest on the same principal amount at a fixed rate or rates or variable rate or rates set forth in the agreement.

(7) The term of an agreement entered into pursuant to this section must not exceed the term of the public securities with respect to which the agreement was made.

(8) An agreement entered into pursuant to this section is not a debt or indebtedness or liability of the authorized entity for the purposes of any limitation upon the debt or indebtedness or liability of the authorized entity or any requirement for an election with regard to the issuance of debt or indebtedness or liability that is applicable to the authorized entity.

(9) Limitations upon the rate of interest on a public security do not apply to interest paid pursuant to an agreement entered into pursuant to this section.

(10) An authorized entity which has entered into an agreement pursuant to this section with respect to those public securities may treat the amount or rate of interest on the public securities as the amount or rate of interest payable after giving effect to the agreement for the purpose of calculating:

(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay public securities of the authorized entity;

(b) Statutory requirements concerning revenue coverage that are applicable to public securities of the authorized entity;

(c) Tax levies to pay debt service on public securities of the authorized entity; and

(d) Any other amounts which are based upon the rate of interest of public securities of the authorized entity.

(11) Subject to covenants applicable to the public securities, any payments required to be made by the authorized entity under the agreement may be made from money pledged to pay debt service on the public securities with respect to which the agreement was made or from any other legally available source.

Approved April 5, 2005.

CHAPTER 271
(H.B. No. 215)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-604, IDAHO CODE, TO REVISE THE DEFINITION FOR "LAND ACTIVELY DEVOTED TO AGRICULTURE" FOR PROPERTY TAX PURPOSES, TO MAKE GRAMMATICAL CHANGES AND TO DEFINE "FOR-PROFIT"; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-604, Idaho Code, be, and the same is hereby amended to read as follows:

63-604. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED. (1) For property tax purposes, land which is actively devoted to agriculture ~~as part of an agricultural enterprise~~ shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

(iii) It is used by the owner for the grazing of livestock to be sold as part of a ~~net profit making~~ for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iv) It is in a cropland retirement or rotation program.

(b) The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or

(ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars ($1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.

(2) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes, whether within or without a city.

(3) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide ~~profit-making agricultural~~ for-profit enterprise shall not be considered to be land ~~which is~~ actively devoted to agriculture.

(4) Land actively devoted to agriculture, having previously qualified for exemption under this section in the preceding year, or which would have qualified under this section during the current year, shall not lose such qualification due to the owner's or lessee's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the Internal Revenue Code, and the land would otherwise qualify for exemption under this section, then the board of county commissioners of the county in which the land actively devoted to agriculture is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

(5) As used in this section:

(a) "C"contiguous" ~~shall~~ means being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way; and

(b) "For-profit" means the enterprise will, over some period of time, make or attempt to make a return of income exceeding expenses.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved April 5, 2005.

CHAPTER 272
(H.B. No. 219)

AN ACT

RELATING TO NAMES OF FORMALLY ORGANIZED BUSINESS ENTITIES AND ASSUMED BUSINESS NAMES; AMENDING SECTION 30-1-401, IDAHO CODE, TO PROHIBIT CORPORATE NAMES FROM FALSELY IMPLYING GOVERNMENT AFFILIATION; AMENDING SECTION 30-3-27, IDAHO CODE, TO PROHIBIT NONPROFIT CORPORATE NAMES FROM FALSELY IMPLYING GOVERNMENT AFFILIATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 53-202, IDAHO CODE, TO PROHIBIT LIMITED PARTNERSHIP NAMES FROM FALSELY IMPLYING GOVERNMENT AFFILIATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 53-503, IDAHO CODE, TO PROHIBIT ASSUMED BUSINESS NAMES FROM FALSELY IMPLYING GOVERNMENT AFFILIATION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 53-602, IDAHO CODE, TO PROHIBIT LIMITED LIABILITY COMPANY NAMES FROM FALSELY IMPLYING OR STATING A GOVERNMENT AFFILIATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 30-1-401, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-401. CORPORATE NAME. (1) A corporate name:

(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.,"

or words or abbreviations of like import in another language; provided however, that if the word "company" or its abbreviation is used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and";

(b) May not contain language falsely stating or implying government affiliation or stating or implying that the corporation is organized for a purpose other than that permitted by section 30-1-301, Idaho Code, and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A name reserved or registered under section 30-1-402 or 30-1-403, Idaho Code, or reserved under section 53-203 or 53-603, Idaho Code;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; and

(e) The name of any limited partnership, limited liability partnership or limited liability company which is organized under the laws of this state or registered to do business in this state.

(3) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable on his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, holder of a reserved or registered name, limited partnership, limited liability partnership or limited liability company consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation or limited liability company that is used in this state if the other corporation or limited liability company is organized or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation or limited liability company;

(b) Has been formed by reorganization of the other corporation or limited liability company; or

(c) Has acquired all or substantially all of the assets, including the name, of the other corporation or limited liability company.

(5) This chapter does not control the use of assumed business names, governed by "The Assumed Business Names Act of 1997," chapter 5, title 53, Idaho Code.

(6) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor

derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of this section.

SECTION 2. That Section 30-3-27, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-27. CORPORATE NAME. The corporate name:

(1) Shall contain the word "corporation," "company," "incorporated" or "limited," or shall contain an abbreviation of one (1) of such words; provided however, that if the word "company" or its abbreviation is used, it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and."

(2) Shall not contain any word or phrase which falsely indicates or implies government affiliation or that it is organized for any purpose other than one (1) or more of the purposes contained in its articles of incorporation.

(3) Shall be distinguishable on the records of the secretary of state from the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has, in effect, a registration of its corporate name as provided in this act, except that this provision shall not apply if the applicant files with the secretary of state either of the following:

(a) The written consent of such other corporation or holder of a reserved or registered name to use the name which is not distinguishable on the records of the secretary of state, and one (1) or more words are added to make such name distinguishable from such other name; or

(b) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state.

(4) A corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one (1) or more domestic or foreign corporations or upon a sale, lease or other disposition to or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this state by any of such corporations if such other corporation was organized under the laws of, or is authorized to transact business in, this state.

(5) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

(6) The assumption of a name in violation of the provisions of this

section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of the provisions of this section.

SECTION 3. That Section 53-202, Idaho Code, be, and the same is hereby amended to read as follows:

53-202. NAME. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the words "limited partnership" or the abbreviation "L.P." or "LP";

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) Must be distinguishable on the records of the secretary of state from the name of any corporation, limited liability company or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation, limited liability company or limited partnership in this state; and

(4) May not contain the following words or abbreviations: "corporation," "incorporated," "corp.," "inc.," "limited liability company," "limited company," "L.L.C.," "LLC," "L.C." and "LC."~~.~~

(5) Shall not falsely state or imply government affiliation.

SECTION 4. That Section 53-503, Idaho Code, be, and the same is hereby amended to read as follows:

53-503. DEFINITIONS. When used in this chapter, the terms defined in this section shall have the following meanings:

(1) "Assumed business name" shall mean:

(a) Any name other than the true name of any formally organized or registered entity, under which name the entity holds itself out for the transaction of business in the state of Idaho; or

(b) Any name under which any individual, any group of individuals or other persons, or any entity other than a formally organized or registered entity, holds itself out for the transaction of business in the state of Idaho, if that name does not include in full the true names of all individuals and other persons who have a financial interest in the business which is or may be transacted; which name shall not include words or abbreviations which falsely state or imply governmental affiliation or the existence of a formally organized or registered entity.

(2) "Formally organized or registered entity" shall mean a legal entity which is created in, authorized to do business in, or given special powers or privileges by the state of Idaho or the federal government by virtue of filing its organizational document, application for authority to do business or registration statement with the secretary of state, the department of finance, the department of insurance, or an agency of the federal government, pursuant to law. Formally organized

or registered entities include corporations, limited liability companies, limited partnerships, limited liability partnerships, foreign insurance companies, credit unions, national banks and other entities created pursuant to federal law.

(3) "Foreign," as applied to a formally organized or registered entity, shall mean organized under the laws of a jurisdiction other than Idaho or the federal government.

(4) "Individual" shall mean a natural person.

(5) "Person" shall mean an individual, a trust or estate, a partnership, or a formally organized or registered entity.

(6) "Transact business" shall mean to engage in any commercial or other activity which is intended to or likely to produce a financial benefit, whether it is for the purpose of profit to the person who engages in the activity or for the purpose of supporting a charitable, benevolent or other nonprofit function.

(7) "True name" shall have the following meanings:

(a) When applied to a formally organized or registered entity, the name by which the entity is identified on its organizational document, application for authority to do business or registration statement which is on file with the appropriate governmental entity. As to a foreign formally organized or registered entity which has been required to adopt an assumed business name on its application for authority to do business or its registration statement as a condition of obtaining authority to do business in Idaho, the term "true name" shall include the assumed business name which appears on the application for authority to do business or registration statement.

(b) When applied to an individual, the name which the individual uses to bind himself or herself to legal obligations, or to obtain privileges, licenses or benefits from government. The true name will include the surname and some combination of given names or initials, and may include other identifiers such as "Jr.," "3d" or "III."

SECTION 5. That Section 53-602, Idaho Code, be, and the same is hereby amended to read as follows:

53-602. NAME. (1) The name of each limited liability company as set forth in its articles of organization must contain the words "Limited Liability Company" or "Limited Company" or the abbreviation "L.L.C.," "L.C.," "LLC" or "LC." The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co." If the limited liability company, however, is a professional services limited liability company as defined in section 53-615, Idaho Code, the name of the limited liability company as set forth in the articles of organization must end with the words "Professional Company" or the abbreviation "P.L.L.C." or "PLLC."

(2) A limited liability company name must be distinguishable on the records of the secretary of state from:

(a) The name of any limited liability company, limited partnership or corporation existing under the laws of this state or authorized to transact business in this state; or

(b) Any name reserved or registered under section 53-603, Idaho Code, the general corporation laws or the Idaho limited partnership act.

(3) The provisions of subsection (2) of this section shall not apply if the applicant files with the secretary of state either of the following:

(a) The written consent of the holder of a reserved or registered name to use a deceptively similar name if one (1) or more words are added, altered or deleted to make the name distinguishable from the reserved or registered name; or

(b) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(4) A limited liability company name may not contain language stating or implying that the limited liability company is organized for a purpose other than that permitted by section 53-605, Idaho Code, and its articles of organization. The name shall not falsely state or imply government affiliation.

Approved April 5, 2005.

CHAPTER 273
(H.B. No. 220)

AN ACT

RELATING TO REGISTRATION OF TRADEMARKS; AMENDING SECTION 48-506, IDAHO CODE, TO CLARIFY THAT TRADEMARK RENEWAL APPLICATIONS MAY INCLUDE A FEE FOR EACH CLASS CODE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 48-506, Idaho Code, be, and the same is hereby amended to read as follows:

48-506. DURATION AND RENEWAL. (1) A registration of mark hereunder shall be effective for a term of ten (10) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term in a manner complying with the rules of the secretary of state, the registration may be renewed for a like term from the end of the expiring term.

(2) A renewal fee, payable to the secretary of state, shall accompany the application for renewal of the registration. When a renewal application includes goods or services which fall within multiple classes, the secretary of state may require payment of a fee for each class.

(3) A registration may be renewed for successive periods of ten (10) years in like manner and the secretary of state shall issue a certificate of renewal.

(4) Any registration in force on the date on which this act shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application for renewal with the secretary of state in compliance with the rules of the secretary of state upon payment of the renewal fee within six (6) months prior to the expiration of the registration.

(5) All applications for renewal under this act, whether of registrations made under this act or of registrations effected under any prior act, shall include a statement that the mark has been and is still in use.

Approved April 5, 2005.

CHAPTER 274
(H.B. No. 221)

AN ACT

RELATING TO ANNUAL REPORTS FILED WITH THE SECRETARY OF STATE BY FORMALLY ORGANIZED BUSINESS ENTITIES; AMENDING SECTION 30-1-1622, IDAHO CODE, TO PERMIT BUSINESS CORPORATIONS TO FILE ANNUAL REPORTS ELECTRONICALLY; AMENDING SECTION 30-3-136, IDAHO CODE, TO PERMIT NONPROFIT CORPORATIONS TO FILE ANNUAL REPORTS ELECTRONICALLY; AMENDING SECTION 53-613, IDAHO CODE, TO PERMIT LIMITED LIABILITY COMPANIES TO FILE ANNUAL REPORTS ELECTRONICALLY; AND AMENDING SECTION 53-3-1003, IDAHO CODE, TO SPECIFY INFORMATION REQUIRED IN THE ANNUAL REPORT, TO PROVIDE THE TIME FOR FILING AND TO PERMIT LIMITED LIABILITY PARTNERSHIPS TO FILE ANNUAL REPORTS ELECTRONICALLY.

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

SECTION 1. That Section 30-1-1622, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1622. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report on a form provided by the secretary of state that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address to which correspondence to the corporation's officers may be mailed; and

(d) The names and business addresses of its directors and its president and secretary.

(2) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(3) The annual report shall be executed by one (1) of the persons identified in section 30-1-120, Idaho Code, or by another person who is authorized by the board of directors to execute the report. Execution of the annual report constitutes a representation that the person is authorized by the board of directors to execute the report.

(4) No annual report need be filed during the first year after a corporation is incorporated or authorized to transact business in this state. The first, and all subsequent annual reports shall be delivered to the secretary of state each year before the end of the month during which a domestic corporation was initially incorporated or a foreign corporation was initially authorized to transact business.

(5) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

(6) ~~The secretary of state may, in his discretion, develop an alternative electronic method for distributing annual report forms and accepting complete and correct annual reports online. Such electronic forms shall require the same information provided in subsection (1) of this section. In the absence of execution, authentication of the annual reports shall be accomplished in a manner within the discretion of~~ Annual reports may be filed electronically by domestic or foreign corporations by following the online filing instructions provided by the secretary of state.

SECTION 2. That Section 30-3-136, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-136. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state an annual report on a form prescribed and furnished by the secretary of state.

(2) The information in the annual report must be current on the date the annual report is executed on behalf of the corporation.

(3) The annual report shall be executed by one (1) of the persons identified in section 30-3-2, Idaho Code, or by another person who is authorized by the board of directors to execute the report. Execution of the annual report constitutes a representation that the person is authorized by the board of directors.

(4) No annual report need be filed during the first year after a corporation is incorporated or authorized to transact business in this state. The first, and all subsequent annual reports shall be delivered to the secretary of state each year before the end of the month during which a domestic corporation was initially incorporated or a foreign corporation was initially authorized to transact business.

(5) If an annual report does not contain the information required in this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required in this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

(6) ~~The secretary of state may, in his discretion, develop an alternative electronic method for distributing annual report forms and accepting complete and correct annual reports online. Such electronic forms shall require the same information provided in subsection (1) of this section. In the absence of execution, authentication of the annual reports shall be accomplished in a manner within the discretion of~~ Annual reports may be filed electronically by domestic or foreign corporations by following the online filing instructions provided by the secretary of state.

SECTION 3. That Section 53-613, Idaho Code, be, and the same is hereby amended to read as follows:

53-613. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES. (1) Each domestic limited liability company, and each foreign limited liability company authorized to do business in this state, shall file an annual report setting forth:

(a) The name of the limited liability company and the state or country under the laws of which it is organized;

(b) The address of the registered office of the limited liability company in this state, and the name of its registered agent in this state at such address, and the address of its principal office;

(c) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the current members of the limited liability company;

(d) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the current managers of the limited liability company.

(2) Such annual report shall be made on a form prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed for the limited liability company by a person authorized by the members if management is vested in the members, or by a person authorized by the managers if management is vested in the managers. Execution by such a person constitutes a representation that the authority was granted. If the limited liability company is in the hands of a receiver or trustee, it shall be executed on behalf of the limited liability company by such receiver or trustee.

(3) The annual report of a domestic or foreign limited liability company shall be delivered to the secretary of state each year before the end of the month during which a domestic limited liability company was initially organized, or a foreign limited liability company was initially authorized to transact business. Beginning one (1) year after a domestic limited liability company is organized or a foreign limited liability company is authorized to transact business, and each year thereafter, the annual report of the limited liability company must be received in the office of the secretary of state not later than the close of business on the final day of the applicable month. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the limited liability company for any necessary corrections.

(4) ~~The secretary of state may, in his discretion, develop an alternative electronic method for distributing annual report forms and accepting complete and correct annual reports online. Such electronic forms shall require the same information provided in subsection (1) of this section. In the absence of execution, authentication of the annual reports shall be accomplished in a manner within the discretion of~~ Annual reports may be filed electronically by domestic or foreign limited liability companies by following the online filing instructions provided by the secretary of state.

SECTION 4. That Section 53-3-1003, Idaho Code, be, and the same is hereby amended to read as follows:

53-3-1003. ANNUAL REPORT. (a) A limited liability partnership, and a foreign limited liability partnership authorized to transact business in this state, shall file an annual report in the office of the secretary of state which contains:

(1) The name of the limited liability partnership and the state or other jurisdiction under whose laws the foreign limited liability partnership is formed;

(2) The name and mailing address of no less than two (2) partners;

(3) The street address of the partnership's chief executive office and, if different, the mailing address of an office of the partnership to which mail may be sent; and

(~~3~~4) The name and street address of the partnership's current agent for service of process.

(b) ~~An annual report must be filed between January 1 and November 30 of each year following the calendar year in which a partnership files a statement of qualification or a foreign partnership becomes authorized to transact business in this state~~ No annual report need be filed during the first year after a limited liability partnership is qualified or authorized to transact business in this state. The first, and all subsequent annual reports shall be delivered to the secretary of state each year before the end of the month during which a limited liability partnership was initially qualified or a foreign limited liability partnership was initially authorized to transact business. If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign limited liability partnership in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

(c) ~~The secretary of state may, in his discretion, develop an alternative electronic method for distributing annual report forms and accepting complete and correct annual reports online. Such electronic forms shall require the same information provided in subsection (a) of this section. In the absence of execution, authentication of the annual reports shall be accomplished in a manner within the discretion of~~ Annual reports may be filed electronically by domestic or foreign limited liability partnerships by following the online filing instructions provided by the secretary of state.

Approved April 5, 2005.

CHAPTER 275
(H.B. No. 234)

AN ACT

RELATING TO BARBERS; AMENDING SECTION 54-507, IDAHO CODE, TO REVISE LICENSURE AND APPROVAL REQUIREMENTS OF BARBER COLLEGES; AND AMENDING SECTION 54-521, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL GIVE CONSIDERATION TO ALL NOMINATIONS WHEN APPOINTING THE BOARD OF BARBER EXAMINERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-507, Idaho Code, be, and the same is hereby amended to read as follows:

54-507. APPROVED BARBER COLLEGES -- REQUIREMENTS -- BOND. No school teaching the art or science of barbering shall operate in Idaho or be licensed as a school of barbering, unless the entrance requirements are equal to those which are required under section 54-506, Idaho Code. An approved college may teach special courses, but as a prerequisite to graduation the college must provide:

(1) A course of instruction for barber-stylists of not less than one thousand eight hundred (1,800) hours and include in its course of instruction the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; hair cutting; shaving; and arranging, dressing, curling, waving, straightening, coloring, bleaching and tinting of the hair; and

(2) A course of instruction for barbers of not less than nine hundred (900) hours and include in its course of instruction the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; hair cutting; shaving; and arranging and dressing of the hair.

For the purpose of this chapter, a recognized approved barber school or college (hereinafter referred to as a college) shall be understood to be a college that has met ~~with~~ the provisions of this chapter~~;--and-has-a valid--unrevoked--license--issued--by-the-board;-to-the-effect-that-said college-is~~ as approved by the ~~state-of-Idaho~~ board.

No college in the state shall advertise or use any signs or terms to indicate that the college is approved, recognized, accredited, certified, or licensed unless said college is licensed by the board. Every college shall advertise as a college and make known to the public and customers that the work is being done by students.

All instructors in an approved college must be licensed in the state of Idaho as a barber instructor or a cosmetology instructor.

Every instructor in an ~~approved~~ Idaho licensed college shall devote his or her entire time during class hours to that of instructing the students and shall not apply his time to that of private or public practice during the school or class hours.

A college furnishing satisfactory evidence that it is maintaining the requirements set forth in this chapter, ~~whether--located~~ within ~~or without~~ the state, shall, upon the payment of the required fee, be issued a license ~~to-the-effect-that--the--college--is--approved~~ by the board.

A license issued to a college must be renewed annually. Should a college fail or refuse to renew a license said college shall cease to operate, ~~if--within--the-state-of-Idaho~~ and be removed from the list of the approved colleges.

The board may cancel or refuse to renew a license issued to a col-

lege upon proof that said college has failed or refused to meet with the requirements for approved colleges set forth in this chapter.

One (1) instructor must be employed to each fifteen (15) students or fractional part thereof and one (1) barber instructor must be employed on a full-time basis in each school or college.

Every school or college ~~approved~~ licensed by the board shall deliver to the board, a bond to the state of Idaho in the sum of twenty thousand dollars ($20,000) in a form approved by the board, and provide a copy of the bond annually together with the application for school license renewal. The bond shall be executed by a corporate surety company duly authorized to do business in this state, conditioned that such school or college shall continue to give its courses of instruction, in accordance with the provision of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school or college shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school or college to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage.

SECTION 2. That Section 54-521, Idaho Code, be, and the same is hereby amended to read as follows:

54-521. BOARD OF BARBER EXAMINERS -- POWERS AND DUTIES -- DESIGNATION OF PERSONS TO REPORT TO BOARD. There is hereby created, and established in the department of self-governing agencies, the board of barber examiners. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest (in this chapter referred to as the board) and in addition to the powers herein elsewhere conferred, shall have the following powers and it shall be the duty of the board:

(1) To conduct examinations to ascertain the qualifications and fitness of applicants for licenses hereunder and to pass upon the qualifications of all applicants for licenses.

(2) To conduct hearings and proceedings in accordance with the provisions of chapter 52, title 67, Idaho Code, to revoke licenses issued under this chapter and to revoke such licenses subject to the provisions of this chapter.

(3) To designate what schools of barbering within and without the state are approved schools, and from time to time, to change such designations and to keep public records thereof.

(4) To prescribe rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for a fair and wholly impartial method of examination of applicants for licenses hereunder and, subject to the provisions of chapter 52, title 67, Idaho Code, for conducting hearings for the revocation of licenses, defining the qualifications of an approved school of barbering and for the administration of this chapter in general.

Excepting the regulation of schools under section 54-507, Idaho Code, hereof, and the issuance of licenses under section 54-513, Idaho Code, none of the powers and duties specified in subsections (1) ~~to~~ through (4) of this section, shall be exercised by the said bureau except on the action of the board of barber examiners. When vacancies

occur on said board, the governor shall appoint new members, but not more than a total of three (3) members, each of whom shall be a registered barber, and shall have been a resident of, and lawfully practicing barbering within the state of Idaho for a period of at least five (5) years next before his appointment, and who is neither directly nor indirectly in any way connected with or interested in the barber supply business nor in any institution offering instruction in barbering. In appointing the members of such board the governor shall give consideration to ~~the recommendations received from the Idaho state barbers association~~ all nominations. The board and all assistants shall be compensated as provided by section 59-509(h), Idaho Code.

The regular term of office of a member of the board shall begin as of the first Monday of July of the year in which he is appointed and shall continue for three (3) years thereafter. A member appointed to fill a vacancy occasioned otherwise than by expiration of a term shall serve the unexpired term of his predecessor.

A vacancy in membership in the board shall occur, and be declared by the governor, whenever the regular term of a member expires, or whenever a member dies, resigns, or is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or to cease to have the qualifications of a member, or to have acquired disqualifications of a member, or to have been absent without reasonable cause from two (2) successive meetings of the board.

The board of barber examiners shall select from its members a chairman, vice chairman, and secretary who shall serve at the pleasure of the board.

The action and report in writing of the board so designated shall be sufficient authority upon which the bureau may act.

Whenever the board is satisfied that substantial justice has not been done, either in examination or in revocation of a license or otherwise, it may order a reexamination or rehearing of the matter.

Approved April 5, 2005.

CHAPTER 276
(H.B. No. 238)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS RELATING TO ACADEMIC RESEARCH SHALL BE EXEMPT FROM DISCLOSURE 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 9-340D, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Trade secrets including those contained in response to public

agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

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

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

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

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

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

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to

represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

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

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

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

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

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

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

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal pro-

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

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

(a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and

(b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

(18) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of section 25-207B, Idaho Code, or rules promulgated thereunder.

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

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

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

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

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

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 5, 2005.

CHAPTER 277
(H.B. No. 247, As Amended)

AN ACT

RELATING TO SPEECH AND HEARING SERVICES; REPEALING CHAPTER 29, TITLE 54, IDAHO CODE, RELATING TO HEARING AID DEALERS AND FITTERS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 54, IDAHO CODE, TO SET FORTH THE SPEECH AND HEARING SERVICES PRACTICE ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE TERMS, TO REQUIRE LICENSURE, TO PROVIDE EXEMPTIONS, TO SET FORTH PROVISIONS APPLICABLE TO DEALING AND FITTING OF HEARING AIDS, TO SET FORTH PROVISIONS APPLICABLE TO AUDIOLOGY, SPEECH-LANGUAGE PATHOLOGY, AND HEARING AID DEALERS AND FITTERS SUPPORT PERSONNEL, TO SET FORTH PROVISIONS APPLICABLE TO SPEECH-LANGUAGE PATHOLOGY AIDES AND SPEECH-LANGUAGE PATHOLOGY ASSISTANTS, TO PROVIDE FOR THE SPEECH AND HEARING SERVICES LICENSURE BOARD, TO SET FORTH OFFICER, MEETING AND COMPENSATION PROVISIONS APPLICABLE TO THE BOARD, TO SET FORTH POWERS AND DUTIES OF THE BOARD, TO PROVIDE FOR DISPOSITION OF RECEIPTS AND EXPENSES, TO SET FORTH QUALIFICATIONS FOR LICENSURE FOR AUDIOLOGISTS, SPEECH-LANGUAGE PATHOLOGISTS, SPEECH-LANGUAGE PATHOLOGIST AIDES, SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS AND HEARING AID DEALERS AND FITTERS, TO PROVIDE FOR DUAL LICENSURE, TO SET FORTH EXCEPTIONS TO LICENSURE REQUIREMENTS, TO PROVIDE FOR PROVISIONAL PERMITS, TO PROVIDE FOR THE DENIAL OF APPLICATIONS, TO PROVIDE FOR RENEWAL AND REINSTATEMENT OF LICENSES, TO REQUIRE PUBLIC DISPLAY OF LICENSES, TO PROVIDE FOR INACTIVE LICENSES, TO REQUIRE THE REPORTING OF NAME AND ADDRESS CHANGES, TO SET FORTH GROUNDS FOR DISCIPLINARY ACTION AND DENIAL OF LICENSURE, TO SET FORTH PROVISIONS APPLICABLE TO INVESTIGATIONS AND DISCIPLINARY ACTIONS, TO PROVIDE FOR PENALTIES, TO PROVIDE JUDICIAL REVIEW, TO PROHIBIT CERTAIN PRACTICES AND TO SET FORTH PENALTIES; AND AMENDING SECTIONS 67-2601 AND 67-2602, IDAHO CODE, TO PROVIDE REFERENCES TO THE SPEECH AND HEARING SERVICES LICENSURE BOARD.

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

SECTION 1. That Chapter 29, Title 54, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 54, Idaho Code, and to read as follows:

CHAPTER 29
SPEECH AND HEARING SERVICES PRACTICE ACT

54-2901. SHORT TITLE. This chapter shall be known and may be cited as the "Speech and Hearing Services Practice Act."

54-2902. DECLARATION OF POLICY. To protect the public health, safety and welfare, and to provide for administrative supervision, licensure and regulation, every person practicing or offering to practice audiology, speech-language pathology, or hearing aid dealing and

fitting services as defined in this chapter, who meets and maintains prescribed standards of competence and conduct, shall be licensed as provided in this chapter. This chapter shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

54-2903. DEFINITIONS. As used in this chapter:

(1) "Applicant" means a person applying for a license or permit under this chapter.

(2) "Audiologist" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter and is engaged in the practice of audiology.

(3) "Board" means the speech and hearing services licensure board.

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

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

(6) "Hearing aid" means any wearable electronic instrument or other device designed for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds attached to the hearing aid, but excluding batteries and cords. "Hearing aid" does not include those devices classified by the federal drug administration as assistive listening devices.

(7) "Hearing aid dealer and fitter" means a person licensed pursuant to this chapter to provide hearing aid evaluations and to sell, dispense and fit hearing aids in the state of Idaho.

(8) "Hearing aid evaluation" means the measurement of human hearing for the purpose of selecting or adapting a hearing aid, and not for obtaining medical diagnosis or legal documentation, and includes the following:

(a) Air conduction threshold testing;

(b) Bone conduction threshold testing;

(c) Speech reception threshold testing;

(d) Speech discrimination testing;

(e) Most comfortable loudness level testing; and

(f) Uncomfortable loudness level testing.

(9) "Improper fitting" means a pattern of hearing aid selections or adaptations which cause physical damage to any portion of the ear, in which the electroacoustic characteristics of the hearing aid are inadequate for the consumer, or in which the hearing aid is physically or acoustically unsuited to the consumer including, but not limited to:

(a) An all-in-the-ear hearing aid which continually falls out of the ear;

(b) Any hearing aid or earmold which causes inappropriate feedback, pain or discomfort to the ear within thirty (30) days of the original delivery of the hearing aid to the consumer;

(c) Fitting a consumer with impacted cerumen; or

(d) Fitting a consumer with either an apparent unilateral sensorineural hearing loss or a significant air-bone gap without prior medical evaluation and approval.

(10) "License" means a license issued by the board under this chapter authorizing practice as a speech-language pathologist, audiologist, or hearing aid dealer and fitter.

(11) "Practice of audiology" means to apply the principles, methods and procedures of measurement, evaluation, testing, counseling, consultation and instruction that relate to the development and disorders of hearing, vestibular functions and related language and speech disorders

to prevent, modify or rehabilitate the disorders or to assist individuals in auditory and related skills for communication, and may include intraoperative monitoring and the fitting, adjustment, programming, selling and dispensing of hearing aids and assistive devices.

(12) "Practice of fitting and dealing in hearing aids" means the selection, adaptation, dispensing, fitting or sale of hearing aids, and includes the testing of hearing by means of an audiometer, or by any other device designed specifically for these purposes. The practice also includes the making of impressions for earmolds.

(13) "Practice of speech-language pathology" means the application of principles, methods and procedures of measurement, evaluation, testing, counseling, rehabilitation, screening, consultation and instruction that relate to the development and disorders of human communication including, but not limited to, speech (articulation, fluency, voice, accent reduction) and language, swallowing, cognitive communication disorders, augmentative and alternative communication systems and related hearing disorders.

(14) "Provisional permit" means a permit issued to an applicant who is registered to obtain required experience to become licensed.

(15) "Speech-language pathologist" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and who engages in the practice of speech-language pathology.

(16) "Speech-language pathologist aide" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and who works under the direction and supervision of a speech-language pathologist. A speech-language pathologist aide shall not act or provide services independently of a supervising speech-language pathologist licensed in Idaho.

(17) "Speech-language pathologist assistant" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and works under the direction and supervision of a speech-language pathologist. A speech-language pathologist assistant shall not act or provide services independently of a supervising speech-language pathologist licensed in Idaho.

54-2904. LICENSE REQUIRED. (1) Except as otherwise provided in this chapter, it shall be unlawful for any person to engage in the practice or to perform or offer to practice audiology or speech-language pathology or to act as a hearing aid dealer or fitter unless such person is duly licensed in accordance with this chapter. A license issued pursuant to this chapter shall be posted in the licensee's established place of business or carried upon the person, and shall be presented as proof of licensure upon demand.

(2) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "audiologist," "audiometrist," "hearing clinician," "hearing therapist," or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of audiology, unless such services are provided by an audiologist licensed in accordance with this chapter or lawfully exempt pursuant to section 54-2905(1)(c), Idaho Code.

(3) It is unlawful for any person or business entity, or its

employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "speech pathologist," "speech therapist," "speech correctionist," "speech clinician," "language therapist," "language pathologist," "voice therapist," "voice pathologist," "logopedist," "communicologist," "aphasiologist," or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of speech-language pathology, unless such services are provided by a speech-language pathologist licensed in accordance with this chapter or lawfully exempt pursuant to section 54-2905(1)(c), Idaho Code.

(4) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "hearing aid dealer and fitter" or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of audiology or hearing aid dealing and fitting, unless such services are provided by an audiologist or hearing aid dealer and fitter licensed in accordance with this chapter.

54-2905. EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict:

(a) Any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which he or she is licensed or regulated including, but not limited to, any certified or accredited teacher of the deaf, nurse, physician, occupational therapist, physical therapist, surgeon, or any other licensed or regulated practitioner of the healing arts;

(b) Any employee working under the direct supervision of those persons referred to in this section, so long as such employee does not hold himself or herself out as an audiologist, speech-language pathologist, speech-language pathologist aide or assistant, hearing aid dealer or fitter, or a person engaged in the practice of audiology, speech-language pathology or hearing aid dealing and fitting; or

(c) Any person working in an Idaho public school setting who has received and holds, in good standing, a pupil personnel services certificate with a speech language pathologist endorsement or audiologist endorsement, or any person working as a speech-language pathologist aide or speech-language pathologist assistant, as those terms are defined in section 54-2903, Idaho Code, in a public school setting under the direction and supervision of a person with such endorsement in good standing. Such persons, while practicing in the public school setting, shall be exempt from all provisions of this chapter; provided however, that any such person working in an Idaho public school setting with a pupil personnel services certificate with a speech-language pathologist endorsement or audiology endorsement, or a speech-language pathologist aide or speech-language pathologist assistant, shall be prohibited from practicing independently in a setting other than a public school unless such person is duly licensed as set forth in this chapter.

(2) Licensure shall not be required for persons pursuing a course of study leading to a degree in audiology, speech-language pathology, or

hearing aid dealing and fitting at a college or university with a curriculum acceptable to the board provided that:

(a) Activities and services otherwise regulated by this chapter constitute a part of a planned course of study at that institution;

(b) Such persons are designated by a title such as "intern," "trainee," "student," or by other such title clearly indicating the status appropriate to their level of education; and

(c) Such persons work under the supervision of a person licensed by this state to practice audiology, speech-language pathology or hearing aid dealing and fitting in accordance with administrative rules governing supervision as adopted by the board. The supervising audiologist, speech-language pathologist or hearing aid dealer and fitter accepts full responsibility for the activities and services provided by such persons supervised.

(3) Nothing in this chapter shall restrict a person residing in another state or country and authorized to practice audiology, speech-language pathology or hearing aid dealing or fitting there, who is called in consultation by a person licensed in this state to practice audiology, speech-language pathology, or hearing aid dealing and fitting, or who for the purpose of furthering audiology, speech-language pathology or hearing aid dealing and fitting education is invited into this state to conduct a lecture, clinic or demonstration, while engaged in activities in connection with the consultation, lecture, clinic or demonstration, so long as such person does not open an office or appoint a place to meet clients or receive calls in this state.

54-2906. DEALING AND FITTING OF HEARING AIDS. (1) The board shall have the authority to promulgate, by rule, written contract forms that are in compliance with the provisions of this chapter.

(2) Any licensed audiologist or hearing aid dealer and fitter who fits and dispenses hearing aids shall provide to each client:

(a) A written contract executed between the audiologist or hearing aid dealer and fitter, and the client, in accordance with rules established by the board for each hearing aid dispensed;

(b) A minimum thirty (30) day trial period that shall include a provision for the refund of moneys paid for every hearing aid dispensed; and

(c) Written notice of the name, mailing address and telephone number of the board.

(3) A person licensed as a hearing aid dealer and fitter shall, when dealing with a person eighteen (18) years of age or younger, obtain written confirmation that such person has been examined by a licensed otolaryngologist or audiologist within thirty (30) days of the sale of any hearing aid.

54-2907. AUDIOLOGY, SPEECH-LANGUAGE PATHOLOGY AND HEARING AID DEALERS AND FITTERS SUPPORT PERSONNEL -- SPEECH-LANGUAGE PATHOLOGY AIDES AND SPEECH-LANGUAGE PATHOLOGY ASSISTANTS. (1) Audiology, speech-language pathology and hearing aid dealer and fitter support personnel must be trained under the direction of an audiologist, speech-language pathologist or hearing aid dealer and fitter, respectively, and may only perform designated and supervised routine audiology, speech-language pathology or hearing aid dealer and fitter tasks, respectively.

(2) Support personnel, speech-language pathology aides and speech-

language pathology assistants shall not act independently and shall only work under the direction and supervision of an audiologist, speech-language pathologist or hearing aid dealer and fitter, respectively, licensed under this chapter.

(3) The supervising audiologist, speech-language pathologist or hearing aid dealer and fitter accepts full responsibility for the tasks and activities of support personnel and speech-language pathology aides and assistants under their direction and supervision.

(4) Support personnel, aides and assistants shall at all times be designated by the title "support personnel," "aide" or "assistant," respectively, which clearly identifies such person's status as support personnel or as an aide or assistant, and such person shall not use any prohibited title as set forth in section 54-2904, Idaho Code.

(5) The board shall establish rules to define the role of audiology, speech-language pathology and hearing aid dealer and fitter support personnel and speech-language pathology aides and assistants including, but not limited to:

(a) Supervisory responsibilities of the licensee;

(b) Ratio of support personnel, aides or assistants to licensees;

(c) Designation of support personnel's designated and supervised routine audiology, speech-language pathology or hearing aid dealer and fitter tasks, restrictions and responsibilities;

(d) Scope of practice for speech-language pathology aides and assistants, restrictions, and responsibilities;

(e) Frequency, duration and documentation of direct, on-site supervision; and

(f) The quantity and content of preservice and in-service instruction.

54-2908. SPEECH AND HEARING SERVICES LICENSURE BOARD. (1) There is hereby established in the department of self-governing agencies a speech and hearing services licensure board. The board shall consist of seven (7) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho speech-language hearing association, any Idaho association of hearing aid dealers and fitters, and any individual residing in this state. Three (3) members of the board shall be speech-language pathologists, two (2) members shall be audiologists, one (1) member shall be a hearing aid dealer and fitter, and one (1) member shall be appointed from the public at-large. Each nonpublic member shall:

(a) Have been a resident of the state of Idaho for no less than one (1) year immediately preceding his or her appointment;

(b) Have been engaged in rendering services to the public, teaching, or performing research in the field of audiology, speech-language pathology, or hearing aid dealing and fitting for a period of not less than five (5) years preceding his or her appointment;

(c) Be a currently practicing audiologist, speech-language pathologist or hearing aid dealer and fitter; and

(d) At all times during such appointment to the board, maintain a valid license in audiology, speech-language pathology or hearing aid dealing and fitting, except for the first appointees who shall meet the eligibility requirements for licensure as specified in this chapter at all times after initial appointment.

(2) The public member appointed as provided herein shall have been

a resident of the state of Idaho for not less than one (1) year immediately preceding his appointment. Further, such public member shall not be associated with or financially interested in the practice or business of audiology, speech-language pathology or hearing aid dealing and fitting, nor shall such public member be engaged in an allied or related profession or occupation.

(3) Each member shall serve a term of three (3) years, which shall be staggered as follows: The initial licensure board shall have two (2) members whose terms expire July 1, 2006; two (2) members whose terms expire on July 1, 2007; and three (3) members whose terms expire on July 1, 2008. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section. A member may be appointed to serve for one (1) additional three (3) year term. In the event of a vacancy other than by expiration of a term, the board shall appoint a qualified person to fill the vacancy for the unexpired term.

(4) Members shall disqualify themselves and, upon the motion of any interested party may, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

(5) The governor may remove any member of the board from the membership of the board who is guilty of malfeasance, misfeasance or nonfeasance.

54-2909. OFFICERS -- QUORUM -- MEETINGS -- COMPENSATION. (1) The board, within sixty (60) days after the effective date of this act and annually thereafter, shall hold a meeting and elect one (1) of its members as chairperson, to serve a one (1) year term in such capacity, who shall preside at meetings of the board. In the event the chairperson is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairperson.

(2) Four (4) members of the board shall constitute a quorum, provided at least one (1) audiologist, one (1) speech-language pathologist, the hearing aid dealer and fitter member and the public member are present. The board may act by virtue of a majority vote of members present in which a quorum is present.

(3) The board shall meet at least two (2) times per year at a place, day and hour determined by the board. Other meetings may be convened at the call of the chairperson or upon the written request of any two (2) board members.

(4) Members of the board shall be compensated as provided by section 59-509(n), Idaho Code.

54-2910. POWERS AND DUTIES OF THE BOARD. The board shall have the authority to administer, coordinate and enforce the provisions of this chapter including, but not limited to:

(1) Evaluate the qualifications of applicants for licensure, approve and administer examinations to test the knowledge and proficiency of applicants for licensure, and approve or deny the registration and issuance and renewal of licenses and permits;

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

(3) Promulgate rules not inconsistent with the laws of this state which are necessary to carry out the provisions of this chapter including, but not limited to, ethical standards of practice;

(4) Adopt rules allowing for continuing education;

(5) Obtain restraining orders and injunctions prohibiting conduct in violation of the provisions of this chapter, conduct investigations, issue subpoenas, examine witnesses and administer oaths, concerning practices which are alleged to violate the provisions of this chapter;

(6) Suspend or revoke or otherwise sanction licenses in the manner provided in this chapter, or place a person holding a license under this chapter on probation;

(7) Require as a condition of receiving or retaining a license issued under this chapter that restitution be paid to a consumer;

(8) Require the inspection of testing equipment and facilities of persons engaging in any practice pursuant to this chapter; and

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

54-2911. DISPOSITION OF RECEIPTS -- EXPENSES. All moneys received pursuant to the provisions of this chapter shall be deposited to the occupational license fund. All expenses incurred pursuant to the provisions of this chapter shall be paid from the occupational fund.

54-2912. QUALIFICATIONS FOR LICENSURE -- AUDIOLOGIST. (1) To be eligible for licensure by the board as an audiologist, the applicant shall:

(a) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter;

(b) Provide documentation satisfactory to the board that the applicant possesses a master's or doctoral degree with emphasis in audiology or not less than seventy-five (75) semester credit hours of post-baccalaureate study that culminates in a doctoral or other recognized degree from a nationally accredited school for audiology with a curriculum acceptable to the board;

(c) Pass an examination in audiology approved by the board;

(d) Meet the current supervised academic clinical practicum, and supervised postgraduate professional experience approved by the board;

(e) Have never had a license for audiology revoked as part of disciplinary action from this or any other state, and shall not be found by the board to have engaged in conduct prohibited by section 54-2923, Idaho Code, provided however, the board may take into consideration the rehabilitation of the applicant and other mitigating circumstances.

(2) The applicant shall disclose on his written application:

(a) Any criminal conviction or charge, other than minor traffic infractions, against the applicant;

(b) Any disciplinary action taken against the applicant by any professional regulatory agency, including any agency within the state or any other state; and

(c) Any denial of registration or licensure by any state or district regulatory body.

(3) The board may require an applicant to be personally interviewed by the board or a designated committee of the board. The interview shall be limited to a review of the applicant's qualifications and professional credentials.

54-2913. QUALIFICATIONS FOR LICENSURE -- SPEECH-LANGUAGE PATHOLOGIST. (1) To be eligible for licensure as a speech-language pathologist the applicant shall:

(a) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter.

(b) Provide documentation satisfactory to the board that the applicant possesses a master's or doctoral degree from a nationally accredited school of speech-language pathology with a curriculum acceptable to the board.

(c) Pass an examination in speech-language pathology approved by the board.

(d) Meet the current supervised academic clinical practicum and supervised postgraduate professional experience approved by the board.

(e) Have never had a license for speech-language pathology revoked as part of disciplinary action from this or any other state and shall not be found by the board to have engaged in conduct prohibited by section 54-2923, Idaho Code, provided however, the board may take into consideration the rehabilitation of the applicant and other mitigating circumstances.

(2) The applicant shall disclose on his written application:

(a) Any criminal conviction or charge, other than minor traffic infractions, against the applicant;

(b) Any disciplinary action taken against the applicant by any professional regulatory agency, including any agency within the state or any other state; and

(c) Any denial of registration or licensure by any state or district regulatory body.

(3) The board may require an applicant to be personally interviewed by the board or a designated committee of the board. The interview shall be limited to a review of the applicant's qualifications and professional credentials.

54-2914. QUALIFICATIONS FOR LICENSURE -- SPEECH-LANGUAGE PATHOLOGIST AIDE. (1) To be eligible for licensure as a speech-language pathologist aide the applicant shall:

(a) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter;

(b) Provide documentation satisfactory to the board that the appli-

cant possesses a baccalaureate degree from a nationally accredited school of speech-language pathology aide with a curriculum acceptable to the board;

(c) Pass an examination in speech-language pathology aide approved by the board;

(d) Have never had a license for speech-language pathology aide revoked as part of disciplinary action from this or any other state and shall not be found by the board to have engaged in conduct prohibited by section 54-2923, Idaho Code. Provided however, the board may take into consideration the rehabilitation of the applicant and other mitigating circumstances.

(2) The applicant shall disclose on his written application:

(a) Any criminal conviction or charge, other than minor traffic infractions, against the applicant;

(b) Any disciplinary action taken against the applicant by any professional regulatory agency, including any agency within the state or any other state; and

(c) Any denial of registration or licensure by any state or district regulatory body.

(3) The board may require an applicant to be personally interviewed by the board or a designated committee of the board. The interview shall be limited to a review of the applicant's qualifications and professional credentials.

54-2915. QUALIFICATIONS FOR LICENSURE -- SPEECH-LANGUAGE PATHOLOGIST ASSISTANT. (1) To be eligible for licensure as a speech-language pathologist assistant the applicant shall:

(a) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter;

(b) Provide documentation satisfactory to the board that the applicant possesses an associate's degree from a nationally accredited school of speech-language pathology assistant with a curriculum acceptable to the board;

(c) Pass an examination in speech-language pathology assistant approved by the board; and

(d) Have never had a license for speech-language pathology assistant revoked as part of disciplinary action from this or any other state and shall not be found by the board to have engaged in conduct prohibited by section 54-2923, Idaho Code, provided however, the board may take into consideration the rehabilitation of the applicant and other mitigating circumstances.

(2) The applicant shall disclose on his written application:

(a) Any criminal conviction or charge, other than minor traffic infractions, against the applicant;

(b) Any disciplinary action taken against the applicant by any professional regulatory agency, including any agency within the state or any other state; and

(c) Any denial of registration or licensure by any state or district regulatory body.

(3) The board may require an applicant to be personally interviewed

by the board or a designated committee of the board. The interview shall be limited to a review of the applicant's qualifications and professional credentials.

54-2916. QUALIFICATIONS FOR LICENSURE -- HEARING AID DEALER AND FITTER. To be eligible for licensure as a hearing aid dealer and fitter, the applicant shall:

(1) Provide verification acceptable to the board of:

(a) Being at least twenty-one (21) years of age;

(b) Good moral character and temperate habits;

(c) Never having had a license revoked or otherwise sanctioned as part of disciplinary action from this or any other state;

(d) Never having been convicted, found guilty, or received a withheld judgment for any felony; and

(e) Never having been found by the board to have engaged in conduct prohibited by this chapter, provided however, the board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for licensure;

(2) Provide educational documentation satisfactory to the board that the applicant has successfully graduated from a four (4) year course at an accredited high school or the equivalent; and

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

54-2917. DUAL LICENSURE. A person may be licensed as both an audiologist and a speech-language pathologist if such person duly meets the requirements of licensure for both. A person obtaining licensure as both an audiologist and a speech-language pathologist shall be charged fees as though the person had obtained only one (1) license.

54-2918. EXCEPTION TO LICENSURE REQUIREMENTS. (1) Prior to July 1, 2006, the board may deem other education or examination equivalent to licensure requirements, provided that the board is satisfied, and the applicant provides documentation acceptable to the board, that such applicant:

(a) Has engaged in the practice of audiology or speech-language pathology in this state prior to July 1, 2005, as provided in administrative rules; and

(b) Has practiced for not less than five (5) years in the field for which such applicant is applying for licensure under this chapter; and

(c) Applies for licensure prior to July 1, 2006.

(2) For applicants who received their professional education outside of the United States, the board may deem such education acceptable, provided that the board is satisfied, and the applicant provides documentation acceptable to the board, that equivalent education requirements have been met. The board, in its discretion, may require by rule that applicants who received their professional education outside of the United States provide additional information to the board concerning such professional education. The board may also, in its discretion, require successful completion of additional coursework before proceeding with the application process.

54-2919. PROVISIONAL PERMIT. The board shall adopt rules providing for a provisional permit to allow a person to engage in the practice of audiology or speech-language pathology while completing either the required postgraduate experience or a comparable experience as part of a doctoral program in audiology as required by this chapter. The board may further provide for a provisional permit to allow a person to engage in fitting and dealing hearing aids pursuant to rules adopted by the board. The holder of a provisional permit may practice only while under the supervision of a person fully licensed under this chapter.

54-2920. DENIAL OF APPLICATION. An application for licensure that has been denied by the board shall be considered a contested case as provided for in chapter 52, title 67, Idaho Code, and shall be subject to the provisions of that chapter as well as the administrative rules adopted by the board governing contested cases.

54-2921. RENEWAL AND REINSTATEMENT OF LICENSES -- PUBLIC DISPLAY -- INACTIVE LICENSE. (1) All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(2) Each person licensed pursuant to this chapter shall, on or before the expiration of his or her license, submit an application and pay to the board a license fee for a renewal of the license and shall keep such license posted in his or her office or established place of business at all times.

(3) The board may issue inactive licenses pursuant to rules adopted by the board that may specify the terms and procedures necessary to maintain an inactive license. The holder of an inactive license shall not engage in any practice defined by this chapter.

54-2922. REPORTING OF NAME OR ADDRESS CHANGE. All licensed audiologists, speech-language pathologists, speech-language pathology aides and assistants, and hearing aid dealers and fitters shall report to the board any name change or changes in business and home addresses prior to the expiration of thirty (30) days after the change becomes final.

54-2923. GROUNDS FOR DISCIPLINARY ACTION AND DENIAL. The following conduct, acts or conditions shall constitute grounds for disciplinary action and grounds for denial of an application for licensure or renewal:

(1) The conviction of any felony or being convicted of any crime which has a bearing on any practice pursuant to this chapter. Conviction, as used in this subsection (1), shall include a finding of verdict of guilt, an admission of guilt, or a plea of nolo contendere or its equivalent. The record of conviction, or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction occurred, shall be conclusive evidence of such conviction;

(2) Obtaining or attempting to obtain a license or registration by fraud, misrepresentation, omission or deceit, or making misleading,

deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession;

(3) When related to the practice for which licensure is required by this chapter, engaging in incompetent or unethical conduct, or practicing or offering to practice beyond the scope of the practice as defined in this chapter, or committing an intentional, negligent, or reckless act or failing to act, or engaging in practice that fails to meet the standard of care provided by licensees in the same or similar communities;

(4) Practicing when physical or mental abilities are impaired by including, but not limited to, the use of controlled substances or other drugs, chemicals or alcohol, or having been adjudged mentally incompetent by a court of competent jurisdiction;

(5) Engaging in practice under a false name or alias or using or attempting to use an invalid license or a license that has been unlawfully purchased, fraudulently obtained, counterfeited or materially altered;

(6) Failing to administer necessary tests utilizing appropriate, established procedures and instrumentation;

(7) Engaging in improper practice or promoting unnecessary devices, treatment, intervention or service for the financial gain of the practitioner or of a third party;

(8) Failing to pay a valid judgment that arose out of any practice pursuant to this chapter within two (2) months of the date that the judgment became final;

(9) Having had a license revoked or suspended, other disciplinary action taken or an application for licensure or license renewal refused, revoked or suspended by the proper authorities of another state, territory or country, or omitting such information from any application to the board, or failure to divulge such information when requested by the board;

(10) Failing to notify the board of any change of address of a place of business within thirty (30) days of the date of such change;

(11) Failing to meet continuing education requirements as established by the board;

(12) Failing to provide refunds pursuant to the terms of a written contract entered into by the consumer and the licensee;

(13) Failing to properly or adequately supervise any permit holder, support person, or assistant in accordance with this chapter and the administrative rules adopted by the board, or aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license;

(14) Committing any act of sexual contact, misconduct, exploitation or intercourse with a client or former client or related to the licensee's practice, provided:

(a) Consent of the client shall not be a defense;

(b) This subsection (14) shall not apply to sexual contact between a licensee and such licensee's spouse or a person in a domestic relationship with the licensee who is also a client;

(c) A former client means a client for whom the licensee is not at the relevant time providing services but for whom the licensee has provided services within the last twelve (12) months; and

(d) Sexual or romantic relationships with former clients beyond the period of time set forth herein may also be a violation if the

licensee uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the client;

(15) Failing to report to the board any act or omission of a licensee, applicant, or any other person, which violates any provision of this chapter;

(16) Interfering with a board investigation or disciplinary proceeding by willful misrepresentation of facts, failure to provide information upon request from the board, or by use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action;

(17) Violating any provisions of this chapter, board rules, adopted codes of ethics or other applicable federal or state statutes or rules including, but not limited to, the Idaho consumer protection act, relating directly or indirectly to any practice pursuant to this chapter.

54-2924. INVESTIGATIONS AND DISCIPLINARY ACTIONS -- PROCEDURES. (1) The board is authorized to institute any investigation, hearing or other legal proceeding necessary to effect compliance with this chapter.

(2) The board or its hearing officer, upon a finding that action is necessary, shall have the power pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by the administrative rules adopted by the board, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides or may be found, which shall be served and returned. The board may require a licensee to be examined to determine his or her mental or physical competence when the board has probable cause to believe the licensee is suffering from an impairment that might impede his or her ability to practice competently. The board may accept a voluntary restriction offered by a licensee on a licensee's scope of practice due to impairment of the licensee's competence.

(3) When it is brought to the attention of the board by the written statement of any person that a person licensed under this chapter has done any act or thing in violation of any provision of this chapter, the board shall make an investigation of such person and, if it is determined there is probable cause to institute proceedings against such person, the board shall commence a formal proceeding against the person in accordance with chapter 52, title 67, Idaho Code, and with the administrative rules adopted by the board.

(4) The board may investigate any person to the extent necessary to determine if the person is engaged in the unlawful practice of audiology or speech-language pathology. If an investigation indicates that a person may be practicing audiology or speech-language pathology unlawfully, the board shall inform the person of the alleged violation. The board shall refer all violations of this section made known to it to appropriate prosecuting attorneys whether or not the person ceases the unlawful practice. The board may render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

(5) The board may, in the name of the people of the state of Idaho,

apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this chapter. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided for in this chapter.

54-2925. DISCIPLINARY ACTIONS -- PENALTIES. The board, upon receipt of a recommendation received from the licensure board that a person has violated any provision of this chapter, may take the following disciplinary actions singly or in combination:

(1) Issue a formal reprimand;

(2) Require additional education as a requirement for continued practice;

(3) Impose restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of license status, or type or condition of client served. The board may require a licensee to report regularly to the board on matters regarding the restricted license;

(4) Suspend a license, the duration of which shall be determined by the board;

(5) Revoke a license;

(6) Refuse to issue or renew a license;

(7) Impose a fine not to exceed one thousand dollars ($1,000) for each violation of this chapter; or

(8) Assess costs and attorney's fees against a licensee for any investigation and/or administrative proceeding.

54-2926. JUDICIAL REVIEW. Any person who is aggrieved by any action of the board in denying, refusing to renew, suspending or revoking a license, issuing a censure, imposing any restriction upon a license, or imposing any fine, may seek judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

54-2927. UNLAWFUL PRACTICE -- PENALTIES. (1) It shall be unlawful for any person to practice or offer to practice audiology or speech-language pathology in this state, or to use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is an audiologist or speech-language pathologist, unless such person has been licensed under the provisions of this chapter.

(2) It shall be unlawful for any person to aid, abet or require another person, licensed or unlicensed, to directly or indirectly violate or evade any provision of this chapter, or to combine or conspire with another person, or permit one's license to be used by another person, or to act as an agent, partner, associate or otherwise, of another person with the intent to violate or evade the provisions of this chapter.

(3) A violation of the provisions of this chapter shall constitute a misdemeanor and any person convicted thereof shall be fined an amount not to exceed one thousand dollars ($1,000), or imprisoned in a county jail for a period not to exceed six (6) months, or shall be punished by both such fine and imprisonment.

SECTION 3. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, ~~of hearing-aid-dealers-and-fitters,~~ as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho

Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

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

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

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

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

SECTION 4. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of acupuncture, board of architectural examiners, board of barber

examiners, board of chiropractic physicians, board of cosmetology, counselor licensing board, state board of denturitry, speech and hearing services licensure board, ~~of hearing aid dealers and fitters,~~ board of landscape architects, board of morticians, board of examiners of nursing home administrators, board of optometry, board of podiatrists, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of social work examiners, and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

(2) Notwithstanding the statutes governing specific boards, for any board that contracts with the bureau of occupational licenses, each board member shall hold office until a successor has been duly appointed and qualified.

(3) The department of self-governing agencies, by and through the bureau of occupational licenses, shall be empowered to provide administrative or other services for the administration of chapter 48, title 54, Idaho Code, to issue, suspend, revoke or refuse to renew certificates of registration, to issue subpoenas, to prescribe and impose fees and to assess administrative penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

Approved April 5, 2005.

CHAPTER 278
(H.B. No. 249)

AN ACT

RELATING TO PROHIBITIONS AGAINST DISCRIMINATORY PRACTICES; AMENDING SECTION 67-5901, IDAHO CODE, TO INCLUDE WITHIN PURPOSES OF THE CHAPTER PROHIBITIONS AGAINST DISCRIMINATION AGAINST PERSONS WITH DISABILITIES; AMENDING SECTION 67-5902, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5903, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS AND TO PROVIDE FOR DIVERSE REPRESENTATION AMONG MEMBERS OF THE COMMISSION; AMENDING SECTION 67-5909, IDAHO CODE, TO INCLUDE DISCRIMINATION AGAINST A PERSON WITH A DISABILITY IN ACTS PROHIBITED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5910, IDAHO CODE, TO PROVIDE ADDITIONAL LIMITATIONS ON THE APPLICATION OF THIS CHAPTER AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-5911, IDAHO CODE, TO PROHIBIT REPRISALS FOR TAKING ACTIONS PURSUANT TO THIS CHAPTER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

67-5901. PURPOSE OF ~~ACT~~ CHAPTER. The general purposes of this ~~act~~ chapter are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended, and Titles I and III of the Americans with Disabilities Act.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin or disability in connection with employment, public accommodations, ~~education~~ and real property transactions, discrimination because of race, color, religion, sex or national origin in connection with education, discrimination because of age ~~or disability~~ in connection with employment, ~~and discrimination because of disability in real property transactions,~~ and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this ~~act~~ chapter, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this ~~act~~ chapter;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this ~~act~~ chapter;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person, wherever situated, who hires five (5) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year whose services are to be partially or wholly performed in the state of Idaho, except for domestic servants hired to work in and about the person's household. The term also means:

(a) ~~a~~A person who as contractor or subcontractor is furnishing material or performing work for the state;

(b) ~~a~~Any agency of or any governmental entity within the state; and

(c) ~~a~~Any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes:

(a) ~~a~~An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(b) aA conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) aAn agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one (1) or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these;

(15) "Disability" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial limitation to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A person with a disability is one who (a) has such a disability, or (b) has a record of such a disability, or (c) is regarded as having such a disability;

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal operations, (b) threaten the health or safety of the person with the disability or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment;

(17) "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include (a) the nature and cost of the action needed under this chapter, (b) the overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources, or the impact otherwise of the action upon the operation of the facility, (c) the overall financial resources of the covered entity, the overall size of the business of a

covered entity with respect to the number of its employees, the number, type, and location of its facilities, and (d) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

SECTION 3. That Section 67-5903, Idaho Code, be, and the same is hereby amended to read as follows:

67-5903. CREATION OF COMMISSION ON HUMAN RIGHTS -- MEMBERS -- APPOINTMENT. There is hereby created in the office of the governor the Idaho commission on human rights to consist of nine (9) members, all of whom shall be appointed by the governor, with the advice and consent of the senate, each for a term of three (3) years. ~~In--making--the--first appointments,--the--governor--shall--specify-the-term-of-each-member,-so that-the-terms-of-three-(3)-members--expire--each--year.--The--terms--of office--of--members--of--the--commission-holding-office-prior-to-July-1, 1974,-shall-terminate-on-July-1,--1974,--and--within--thirty--(30)--days thereafter--the-governor-shall-appoint-the-members-of-the-commission-who shall-serve-staggered-terms-as-provided-by-this-section.~~

~~On-and-after-July-1,-1976,-the-governor-shall-appoint-members-of-the commission-as-terms-of-existing-members-expire-so-that--t~~The commission shall be comprised as follows: one (1) member shall be representative of industry; one (1) member shall be representative of labor; and seven (7) members shall be appointed at large. Members shall be appointed to obtain, to the extent possible, broad representation of the diversity of individuals who comprise the population of the state of Idaho.

SECTION 4. That Section 67-5909, Idaho Code, be, and the same is hereby amended to read as follows:

67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and subsections. It shall be a prohibited act to discriminate against a person because of, or on the basis of, age ~~or-disability~~ in subsections (1), (2), (3) and (4) of this section. It shall be a prohibited act to discriminate against a person because of, or on the basis of, disability in subsections (1), (2), (3) and (4) of this section, provided that the prohibition against discrimination because of disability shall not apply if the particular disability, even with a reasonable accommodation, ~~by--the employer,~~ prevents the performance of the work required ~~by-the-employer~~ in that job, and in subsections (6), (8), (9), (10) and (11) of this section. The prohibition to discriminate shall also apply to ~~persons with-disabilities-in-real-property-transactions-in-subsections-(7),-(8), (9)-and-(10)-of-this-section,-and-to~~ those individuals without disabilities who are associated with a person with a disability.

(1) For an employer to fail or refuse to hire, to discharge, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment or to reduce the wage of any employee in order to comply with this ~~act~~ chapter;

(2) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against an individual or to classify

or refer an individual for employment;

(3) For a labor organization~~;~~:

(a) ~~t~~To exclude or to expel from membership, or to otherwise discriminate against, a member or applicant for membership,

(b) ~~t~~To limit, segregate or classify membership, or to fail or refuse to refer for employment an individual in any way,

1. ~~w~~Which would deprive an individual of employment opportunities, or

2. ~~w~~Which would limit employment opportunities or adversely affect the status of an employee or of an applicant for employment, or

(c) ~~t~~To cause or attempt to cause an employer to violate this ~~act~~ chapter.

(4) For an employer labor organization or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by an employment agency, indicating a preference, limitation, specification or discrimination; but a notice or advertisement may indicate a preference limitation, specification, or discrimination when such is a bona fide occupational qualification for employment;

(5) For a person~~;~~:

(a) ~~t~~To deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, or

(b) ~~t~~To print, circulate, post, or mail or otherwise cause to be published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For a person who owns, leases or operates a place of public accommodation:

(a) To deny an individual on the basis of disability the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation;

(b) To impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered;

(c) To fail to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages or accommodations;

(d) To fail to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segre-

gated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden;

(e) To fail to remove architectural barriers and communication barriers that are structural in nature, in existing facilities and transportation barriers in existing vehicles used by an establishment for transporting individuals (not including barriers that can only be removed through retrofitting of vehicles), where such removal is readily achievable; or

(f) Where an entity can demonstrate that the removal of a barrier under paragraph (e) of this subsection is not readily achievable, to fail to make such goods, services, facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.

(7) For an educational institution~~:~~

(a) ~~t~~To exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, or

(b) ~~t~~To make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, of an applicant for admission, except as permitted by the regulations of the commission,

(c) ~~t~~To print or publish or cause to be printed or published a catalogue or other notice or advertisement indicating a preference, limitation, specification, discrimination of an applicant for admission, or

(d) ~~t~~To announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members.

(~~7~~8) For an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman~~:~~

(a) ~~t~~To refuse to engage in a real estate transaction with a person,

(b) ~~t~~To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith,

(c) ~~t~~To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person,

(d) ~~t~~To refuse to negotiate a real estate transaction with a person,

(e) ~~t~~To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property,

(f) ~~t~~To print, circulate, post or mail or cause to be so published a statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto,

(g) ~~t~~To offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith, or

(h) ~~t~~To refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if the modifications may be necessary to afford such person full enjoyment of the premises. Provided, that~~,~~ in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior, exterior, or both, of the premises, to the condition that existed before the modification, reasonable wear and tear excepted. The provision for restoration shall be included in any lease or rental agreement.

(~~8~~9) For a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person~~;~~:

(a) ~~t~~To discriminate against the applicant,

(b) ~~t~~To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates directly or indirectly, an intent to make a limitation, specification, or discrimination.

(~~9~~10) To insert in a written instrument relating to real property a provision which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof;

(1~~0~~1) For a person for the purpose of inducing a real estate transaction from which he may benefit financially~~;~~:

(a) ~~t~~To represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(b) ~~t~~To represent that this change will or may result in the lowering of property values, an increase in criminal or ~~anti-social~~ antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 5. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

67-5910. LIMITATIONS. (1) This ~~act~~ chapter does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

(2) It is not a discriminatory practice~~;~~:

(a) ~~f~~For an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or

(b) ~~f~~For an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this ~~act~~ chapter, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified in subsection (~~7~~9) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this ~~act~~ chapter shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 U.S.C., section 631(c)(1) and (2), or

(c) ~~f~~For a religious educational institution or an educational organization to limit employment or give preference to members of the same religion, or

(d) ~~f~~For an employer, employment agency, or labor organization to discriminate against a person with a disability which, under the circumstances, poses a ~~serious~~ direct threat to the health or safety of the person with a disability or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

(3) Nothing in this chapter shall require a person who owns, leases or operates a place of public accommodation, to permit an individual with a disability to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such place of public accommodation, where such individual poses a direct threat to the health or safety of others. The burden of proving this defense is upon the person who owns, leases or operates a place of public accommodation.

(4) This ~~act~~ chapter does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(5) The provisions of section 67-5909(6), Idaho Code, do not apply to:

(a) Any agency of or any governmental entity within the state; or

(b) Religious organizations or entities controlled by religious organizations, including places of worship.

(~~4~~6) Notwithstanding any other provisions of this ~~act~~ chapter, it is not a discriminatory practice for~~:~~:

(a) ~~a~~A religious educational institution or an educational institution operated, supervised, or controlled by a religious institution ~~(operated,--supervised,-or-controlled-by-a-religious-institution)~~ or organization to limit admission or give preference to applicants of the same religion, or

(b) ~~a~~An educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(~~5~~7) The provisions of section 67-5909(~~7~~8), Idaho Code, do not apply~~:~~:

(a) ~~t~~To the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families

living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

(b) ~~t~~To the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

(~~7~~8) It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

(~~8~~9) The prohibitions against discrimination based on age contained in this ~~act~~ chapter shall be limited to individuals who are at least forty (40) years of age.

SECTION 6. That Section 67-5911, Idaho Code, be, and the same is hereby amended to read as follows:

67-5911. REPRISALS FOR OPPOSING UNLAWFUL PRACTICES. It shall be unlawful for ~~an--employer,--employment-agency,-or-labor-organization~~ a person or any business entity subject to regulation by this chapter to discriminate against any individual because he or she has opposed any practice made unlawful by this ~~act~~ chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this ~~act~~ chapter.

Approved April 5, 2005.

CHAPTER 279
(H.B. No. 253)

AN ACT

RELATING TO EXEMPTION FROM PROPERTY TAXATION; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602HH, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM PROPERTY TAX FOR UNUSED INFRASTRUCTURE.

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 63-602HH, Idaho Code, and to read as follows:

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

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

(3) The exemption shall be for a period of up to five (5) years,

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

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

(5) The exemption provided in this section shall not be granted for any portion of an operating public utility.

(6) As used in this section, "unused infrastructure" means installed utilities including, but not limited to, rail, water, natural gas and electrical lines.

Approved April 5, 2005.

CHAPTER 280
(H.B. No. 265, As Amended)

AN ACT

RELATING TO ASSISTED LIVING FACILITIES AND CERTIFIED FAMILY HOMES; REPEALING SECTIONS 39-3310, 39-3311, 39-3319, 39-3320, 39-3341, 39-3342, 39-3343, 39-3344, 39-3346, 39-3347, 39-3348, 39-3350, 39-3353, 39-3359, 39-3370, 39-3371, 39-3372, 39-3373, 39-3374, 39-3375, 39-3376, 39-3377, 39-3378, 39-3379, 39-3380, 39-3381, 39-3382, 39-3383, 39-3384, 39-3385, 39-3386, 39-3387, 39-3388, 39-3389, 39-3392, 39-3393, 39-3501, 39-3503, 39-3504, 39-3505, 39-3510, 39-3511, 39-3513, 39-3514, 39-3515, 39-3517, 39-3518, 39-3520, 39-3521, 39-3522, 39-3523, 39-3524, 39-3525, 39-3530, 39-3531, 39-3532, 39-3533, 39-3540, 39-3541, 39-3542, 39-3543, 39-3544, 39-3545, 39-3546, 39-3547, 39-3548, 39-3549, 39-3550, 39-3551, 39-3552, 39-3553, 39-3554A, 39-3555, 39-3556, 39-3557, 39-3558, 39-3559, 39-3560, 39-3569, 39-3570, 39-3572, 39-3573, 39-3573A, 39-3574 AND 39-3576, IDAHO CODE; AMENDING THE HEADING FOR CHAPTER 33, TITLE 39, IDAHO CODE; AMENDING SECTION 39-3301, IDAHO CODE, TO REVISE LEGISLATIVE INTENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3302, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-3303, IDAHO CODE, TO CLARIFY PROVISIONS GOVERNING PAYMENT LEVELS; AMENDING SECTION 39-3304, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3305, IDAHO CODE, TO SPECIFY ISSUES TO BE GOVERNED BY RULE; AMENDING SECTION 39-3306, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3307, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REQUIRE NOTICE OF OPTIONS TO PROSPECTIVE RESIDENTS; AMENDING SECTION 39-3308, IDAHO CODE, TO SPECIFY ASSESSMENT CRITERIA TO BE EMPLOYED; AMENDING SECTION 39-3309, IDAHO CODE, TO REVISE CONTENT OF NEGOTIATED SERVICE AGREEMENT; AMENDING SECTION 39-3313, IDAHO CODE, TO GOVERN CONTENT OF ADMISSION AGREEMENTS; AMENDING SECTION 39-3315, IDAHO CODE, TO GOVERN CONTENT OF ADMISSION RECORDS; AMENDING SECTION 39-3316, IDAHO CODE, TO GOVERN RESIDENT RIGHTS AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 39-3318, IDAHO CODE, TO GOVERN RESPONSE TO INCIDENTS AND COMPLAINTS; AMENDING SECTION 39-3321, IDAHO CODE, TO REQUIRE THAT ADMINISTRATORS MUST BE

LICENSED; AMENDING SECTION 39-3322, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REQUIRE NOTICE CONCERNING LIABILITY INSURANCE; AMENDING SECTION 39-3324, IDAHO CODE, TO GOVERN STAFF TRAINING REQUIREMENTS; AMENDING SECTION 39-3325, IDAHO CODE, TO SPECIFY REQUIREMENTS FOR LOCATION AND PHYSICAL ENVIRONMENT OF FACILITIES; AMENDING CHAPTER 33, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3326, IDAHO CODE, TO REQUIRE A POLICY GOVERNING MEDICATIONS; AMENDING SECTION 39-3330, IDAHO CODE, TO PROVIDE FOR THE ADVISORY COUNCIL AND TO SPECIFY MEMBERSHIP; AMENDING SECTION 39-3331, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE ADVISORY COUNCIL; AMENDING SECTION 39-3332, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REQUIRE MEETINGS; AMENDING SECTION 39-3333, IDAHO CODE, TO GOVERN REIMBURSEMENT FOR EXPENSES OF MEMBERS; AMENDING SECTION 39-3340, IDAHO CODE, TO REQUIRE LICENSING; AMENDING SECTION 39-3345, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3349, IDAHO CODE, TO SPECIFY RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSISTANCE; AMENDING SECTION 39-3351, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3352, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3354, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3354A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3355, IDAHO CODE, TO STRIKE CERTAIN INSPECTION REQUIREMENTS; AMENDING THE HEADING FOR CHAPTER 35, TITLE 39, IDAHO CODE; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3501, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 39-3502, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-3506, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3507, IDAHO CODE, TO GOVERN ADMISSIONS; AMENDING SECTION 39-3508, IDAHO CODE, TO REVISE ASSESSMENT CRITERIA; AMENDING SECTION 39-3509, IDAHO CODE, TO REVISE CONTENT OF THE NEGOTIATED SERVICE AGREEMENT AND TO AUTHORIZE A PLAN OF SERVICE; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3511, IDAHO CODE, TO CREATE THE ADVISORY COUNCIL AND TO SPECIFY THE MEMBERSHIP; AMENDING SECTION 39-3516, IDAHO CODE, TO GOVERN RESIDENT RIGHTS; AMENDING SECTION 39-3519, IDAHO CODE, TO SPECIFY ACCESS BY ADVOCATES AND REPRESENTATIVES; AMENDING SECTION 39-3561, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO GOVERN CONTENT OF RULES; AMENDING SECTION 39-3562, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO GOVERN BACKGROUND CHECKS; AMENDING SECTION 39-3563, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3564, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-3565, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3566, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO GOVERN PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE; AMENDING SECTIONS 39-3567 AND 39-3568, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3527, IDAHO CODE, TO PROVIDE RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSISTANCE; AMENDING SECTION 39-3571, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3575, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CLARIFY THE TYPE OF AGREEMENTS COVERED; AMENDING SECTION 39-3577, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AUTHORIZE RULES; AMENDING SECTION 39-3578, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE

A TECHNICAL CORRECTION; AMENDING SECTION 39-3579, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3580, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY APPLICATION OF THE PROVISIONS OF THIS CHAPTER; AND AMENDING SECTION 63-701, IDAHO CODE, TO CORRECT A CODE CITATION.

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

SECTION 1. That Sections 39-3310, 39-3311, 39-3319, 39-3320, 39-3341, 39-3342, 39-3343, 39-3344, 39-3346, 39-3347, 39-3348, 39-3350, 39-3353, 39-3359, 39-3370, 39-3371, 39-3372, 39-3373, 39-3374, 39-3375, 39-3376, 39-3377, 39-3378, 39-3379, 39-3380, 39-3381, 39-3382, 39-3383, 39-3384, 39-3385, 39-3386, 39-3387, 39-3388, 39-3389, 39-3392, 39-3393, 39-3501, 39-3503, 39-3504, 39-3505, 39-3510, 39-3511, 39-3513, 39-3514, 39-3515, 39-3517, 39-3518, 39-3520, 39-3521, 39-3522, 39-3523, 39-3524, 39-3525, 39-3530, 39-3531, 39-3532, 39-3533, 39-3540, 39-3541, 39-3542, 39-3543, 39-3544, 39-3545, 39-3546, 39-3547, 39-3548, 39-3549, 39-3550, 39-3551, 39-3552, 39-3553, 39-3554A, 39-3555, 39-3556, 39-3557, 39-3558, 39-3559, 39-3560, 39-3569, 39-3570, 39-3572, 39-3573, 39-3573A, 39-3574 and 39-3576, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That the Heading for Chapter 33, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 33
IDAHO ~~BOARD AND~~ RESIDENTIAL CARE OR ASSISTED LIVING ACT

SECTION 3. That Section 39-3301, Idaho Code, be, and the same is hereby amended to read as follows:

39-3301. LEGISLATIVE INTENT AND DECLARATION. The purpose of a residential care or assisted living facility in Idaho is to provide a humane, safe, and ~~home-like~~ homelike living arrangement for ~~persons who are mentally ill, developmentally disabled or physically disabled~~ adults who need some assistance with activities of daily living and personal care but do not require the level of care identified under section 39-1301(b), Idaho Code, other than for short exceptional stays meaning a treatment window designed to allow a resident to receive treatment for a short term acute episode as determined by a licensed professional nurse.

The state will encourage the development of facilities tailored to the needs of individual populations which operate in integrated settings in communities where sufficient supportive services exist to provide the resident, if appropriate, an opportunity to work and be involved in recreation and education opportunities. ~~alongside people who are not mentally ill, developmentally disabled or physically disabled. Additional services can be made available in the facility to meet the resident's identified needs~~ Employment, recreational and educational opportunities for people with disabilities shall be offered in the most integrated setting consistent with their needs.

~~The facilities~~ A residential care or assisted living facility shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. ~~The operators shall protect the rights and provide appropriate services to meet the needs of the individual residents.~~

~~The department will be responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to, monitoring the condition of the facility, the individualized, written plan of care including activities of daily living and support services to be provided, and the development of enforcement procedures when violations occur.~~

~~Nothing in this chapter is intended to reduce or eliminate any duty of the department or any other public or private entity for provision of services for any resident.~~

The administrator of the facility shall ensure that an objective, individualized assessment to determine resident needs is conducted, develop a comprehensive negotiated plan of care to meet those needs, deliver appropriate services to meet resident needs, and ensure resident rights are honored.

SECTION 4. That Section 39-3302, Idaho Code, be, and the same is hereby amended to read as follows:

39-3302. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Activities of daily living" means the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(~~2~~3) "Administrator/operator" means ~~any person who has responsibility~~ an individual, properly licensed by the bureau of occupational licensing, who is responsible for day-to-day ~~administration or~~ operation of a ~~licensed~~ residential care or assisted living facility. ~~which provides services to individuals who are mentally ill, developmentally disabled or physically disabled.~~

(~~3~~4) "Adult" means a person who has attained the age of eighteen (18) years.

(~~4~~5) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of mentally ill, developmentally disabled, or elderly residents.

(~~5~~6) "Assessment" means the conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. The assessment criteria shall be developed by the department and ~~relevant~~ residential care or assisted living councils ~~for determining a person's need for care and services.~~

(~~6~~7) "Authorized provider" in this chapter means an individual who is a nurse practitioner or clinical nurse specialist or a physician assistant.

(8) "Board" means the board of health and welfare.

~~(7) "Board and care council" means the interdisciplinary group appointed by the director to advise the agency on matters of policy relating to residential or assisted living facilities and certified family homes.~~

~~(8) "Care provider" means an adult member of the home family responsible for maintaining the certified family home. The care provider and the legal owner may not necessarily be the same person.~~

~~(9)--"Certificate"-means-a-one-(1)-year-certificate--issued--by--the certifying--agent--of-the-department-to-certified-family-homes-complying with-this-chapter.~~

~~(10)-"Certified-family-home"-means-a-family-home-in-which-two-(2)-or fewer-adults-are-placed-to-live-who-are-not-able-to-reside-in-their--own home--and--who--require--family--care,-help-in-daily-living,-protection, security,-and-encouragement-toward-independence-(may-be-referred-to-as-a "home").-Notwithstanding-the-foregoing,-upon-application--by--the--owner the--department-may-authorize-not-more-than-four-(4)-adults-to-be-placed in-a-certified-family-home-which-is-owner-occupied.~~

~~(11)-"Certifying-agent"-means-a-person-acting-under-the-authority-of the-department-to-participate-in-the-certification,-inspection,-and-regulation-of-a-certified-family-home.~~

~~(12)-"Client"-means-any-person-who--receives--financial--aid--and/or services-from-an-organized-program-of-the-department.~~

~~(13)-"Continuing"--means--personal-assistance-services-required-over an-extended-period-of-time.~~

(~~1~~9) "Chemical restraint" means a medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition.

(10) "Core issues" means abuse, neglect, exploitation, inadequate care, a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day-to-day operations of the facility, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and surveyors denied access to records, residents or facilities.

(11) "Department" means the Idaho department of health and welfare.

(1~~5~~2) "Director" means the director of the Idaho department of health and welfare.

(13) "Exploitation" means the misuse of a resident's funds, property, resources, identity or person for profit or advantage.

(1~~6~~4) "Facility" means a ~~licensed~~ residential care or assisted living facility. ~~or-a-certified-family-home.~~

(1~~7~~5) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board, or other agency thereof.

~~(18)-"Home--family"--means--all-individuals-related-by-blood-or-marriage,-other-than-residents,-residing-in-the-certified-family-home.~~

(16) "Inadequate care" occurs when a facility fails to provide the services required to meet the terms of the negotiated service agreement or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment; or engages in violations of resident's rights, or takes residents who have been admitted in violation of the provisions of section 39-3307, Idaho Code.

(1~~9~~7) "License" means a basic permit to operate a ~~licensed~~ residential care or assisted living facility. ~~which-provides-services-to-individuals-who-are-mentally-ill,--developmentally--disabled--or--physically disabled.~~

(~~20~~18) "Licensee" means the ~~holder~~ owner of a license to operate a ~~licensed~~ residential care or assisted living facility under this chapter.

(~~2~~19) "Licensing agency" means the unit of the department of health and welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter.

(20) "Neglect" means failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident.

(2~~2~~1) "Negotiated service agreement" means the agreement reached by the resident and/or their representative and the facility, based on the assessment, physician's orders, ~~if any,~~ admission records, ~~if--any,~~ and desires of the ~~clients~~ resident, and which outlines services to be provided and the obligations of the facility and the resident.

~~(23)-"Authorized-provider"-means-an-individual-who-is-a-nurse--practitioner-or-clinical-nurse-specialist,-licensed-by-the-Idaho-state-board of--nursing,-or-a-physician-assistant,-licensed-by-the-Idaho-state-board of-medicine.~~

~~(24)-"Person"-means-any-individual,-firm,-partnership,--corporation, company,-association-or-joint-stock-association,-and-the-legal-successor thereof.~~

(25~~2~~) "Personal assistance" means the provision by the staff of the facility of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(26~~3~~) "Political subdivision" means a city or county.

~~(27)-"Representative--of--the--department"--means-an-employee-of-the department.~~

(28~~4~~) "Resident" means an adult who lives in a ~~licensed~~ residential care or assisted living facility. ~~or-a-certified-family-home-and-who requires-personal-assistance-or-supervision.~~

(29~~5~~) "Residential care or assisted living facility" means a facility or residence, however named, operated on either a profit or non-profit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more ~~developmentally disabled,--physically-disabled-or-mentally-ill~~ adults not related to the owner.

(3~~0~~26) "Room and board" means lodging and meals.

~~(31)-"Qualified-mental-health-professional"-means-a--person--who--is qualified,-by-training-and-experience-as-defined-by-rules-promulgated-by the-board,-to-provide-services-to-the-mentally-ill.~~

~~(32)-"Qualified--mental-retardation-professional"-means-a-person-who is-qualified,-by-training-and-experience-as-defined-by-rules-promulgated by-the-board,-to-provide-services-to-the-mentally-retarded.~~

(3~~3~~27) "Substantial compliance" means ~~there-are~~ a facility has no core issue deficiencies. ~~which-endanger-the-health,-safety,-or-welfare of-the-residents.-It-also-means-deficiencies-affecting-resident--welfare including-resident-rights,-resident-property,-and-the-opportunity,-where appropriate,--to-work-and-be-involved-in-recreation-and-education-opportunities-in-the-community.~~

(3~~4~~28) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. ~~The-operator-is-responsible-for-providing-appropriate-supervision-based--on--each~~

~~resident's negotiated service agreement~~ The administrator is responsible for providing appropriate supervision based on each resident's negotiated service agreement or other legal requirements.

(~~3~~29) "Supportive services" means the specific services that are provided to the resident in the community. ~~and that are required by the negotiated service agreement or reasonably requested by the resident.~~

SECTION 5. That Section 39-3303, Idaho Code, be, and the same is hereby amended to read as follows:

39-3303. PAYMENT LEVELS. Clients of the department who are ~~mentally ill, developmentally disabled or physically disabled and are~~ receiving financial aid as set out in sections 56-207, 56-208 and 56-209a, Idaho Code, seeking placement in a ~~licensed~~ residential care or assisted living facility ~~or certified family home~~ will be assessed by the department. ~~Based upon the assessed need, the specific types of services and supports required~~ regarding their need for specific types of services and supports. This assessment will determine the ~~level of payment to be received by the resident according to the following criteria:~~ reimbursement rate to the service provider.

~~(1) Level I. The client requires room, board, and supervision and may require one (1) or more of the following:~~

~~(a) Minimal assistance with activities of daily living and nonmedical personal assistance.~~

~~(b) Minimal assistance with mobility, i.e., client is independently mobile.~~

~~(c) Minimal assistance in an emergency, i.e., client is capable of self-preservation in an emergency.~~

~~(d) Minimal assistance with medications, i.e., client does not require medication management or supervision.~~

~~(e) Minimal behavior management substantiated by the client's history.~~

~~(2) Level II. The client requires room, board, and supervision and may require one (1) or more of the following:~~

~~(a) Moderate assistance with activities of daily living and nonmedical personal assistance.~~

~~(b) Moderate assistance with mobility, but easily mobile with assistance.~~

~~(c) Moderate assistance in an emergency, but client is capable of self-preservation with assistance.~~

~~(d) Moderate assistance with medications.~~

~~(e) Moderate assistance with behavior management.~~

~~(3) Level III. The client requires room, board, and staff up and awake on a twenty-four (24) hour basis and may require one (1) or more of the following:~~

~~(a) Extensive assistance with activities of daily living.~~

~~(b) Extensive personal assistance.~~

~~(c) Extensive assistance with mobility and may be immobile without extensive assistance.~~

~~(d) Extensive assistance in an emergency and may be incapable of self-preservation without assistance.~~

~~(e) Extensive assistance with and monitoring of medications.~~

~~(f) Extensive assistance with training and/or behavior management.~~

~~(4)--Other levels and amounts as determined by the department pursuant to negotiated rulemaking as defined in chapter 52, title 67, Idaho Code~~ Eligible participants must be allowed to choose the facility or services that are appropriate to meet their medical needs and financial ability to pay. The department shall promulgate rules outlining the payment policy and calculations for clients of the department through negotiated rulemaking.

SECTION 6. That Section 39-3304, Idaho Code, be, and the same is hereby amended to read as follows:

39-3304. TYPES OF FACILITIES. The state will foster the development of, and provide incentives for, ~~licensed~~ residential care or assisted living facilities serving specific mentally ill and developmentally or physically disabled populations which are small in size to provide for family and ~~home-like~~ homelike arrangements. Small facilities of eight (8) beds or less for ~~the developmentally or physically disabled population~~ individuals with developmental or physical disabilities or dementia and fifteen (15) beds or less for ~~the mentally ill population~~ individual with mental illness will provide residents with the opportunity for normalized and integrated living in typical homes in neighborhoods and communities.

SECTION 7. That Section 39-3305, Idaho Code, be, and the same is hereby amended to read as follows:

39-3305. RULES. (1) The board shall have the authority to adopt, amend, repeal and enforce such ~~reasonable~~ rules as may be necessary or proper to carry out the purpose and intent of this chapter which are designed to protect the health, safety and individual rights of residents in ~~licensed~~ residential care or assisted living facilities. ~~and provide adequate nutrition, supervision, and therapeutic recreational activities and to enable t~~The department ~~to~~ shall exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state. These rules ~~and standards~~ shall be promulgated in accordance with the provisions of the Idaho administrative procedure act. The department shall, through negotiated rulemaking, promulgate rules in the following areas:

(a) Minimum criteria for the assessment;

(b) Minimum criteria for the negotiated service agreement;

(c) Guidelines for the facility's physical environment and location;

(d) Criteria for the facility's license, to include:

(i) Initial license application criteria and procedures;

(ii) License renewal criteria, procedures and timing;

(iii) Inspection criteria and procedures;

(iv) Denial and revocation of license criteria and procedures; and

(v) Effect of previous revocation or denial of license.

(e) Remedy and enforcement provisions for noncompliance with statute.

(2) Rules shall be drafted and promulgated following negotiation with interested providers, assisted living nurse associations and advocates.

SECTION 8. That Section 39-3306, Idaho Code, be, and the same is hereby amended to read as follows:

39-3306. STATE LICENSING TO SUPERSEDE LOCAL REGULATION. This chapter and the rules promulgated pursuant to this chapter shall supersede any program of any political subdivision of the state which licenses or sets standards for ~~licensed~~ residential care or assisted living facilities.

SECTION 9. That Section 39-3307, Idaho Code, be, and the same is hereby amended to read as follows:

39-3307. ADMISSIONS. (1) A ~~licensed~~ residential care or assisted living facility shall not admit or retain any resident requiring a level of services or type of service for which the facility is not licensed or which the facility does not provide or arrange for, or if the facility does not have the staff, appropriate in numbers and with appropriate skills, to provide. Prospective residents will also be informed of options and rights available through other programs, to include medicare benefits where applicable. The department shall provide forms for this.

(2) The department shall develop rules governing admissions to ~~licensed~~ residential care or assisted living facilities.

SECTION 10. That Section 39-3308, Idaho Code, be, and the same is hereby amended to read as follows:

39-3308. ASSESSMENT. The department shall ~~develop~~ employ uniform assessment criteria to assess function and cognitive disability. The conclusions shall be deemed the assessment and shall be used to provide appropriate placement and funding for service needs. The assessment shall also be used to ensure funding is cost-effective and appropriate when compared to other state programs relevant to the needs of the client being assessed. The department shall develop rules regarding:

(1) Qualifications of persons making the assessments.

(2) Department's responsibility for state pay clients.

(3) Time frames for completing an assessment.

(4) Information to be included in an assessment.

(5) Use of an assessment in developing the negotiated service agreement.

(6) Use of assessments in determining facility staffing ratios.

(7) Use of assessments for determining the ability of provider and facility to meet residents' needs and special training or licenses that may be required in caring for certain residents.

SECTION 11. That Section 39-3309, Idaho Code, be, and the same is hereby amended to read as follows:

39-3309. NEGOTIATED SERVICE AGREEMENT. (1) Each resident shall be provided a negotiated service agreement to provide for coordination of services and for guidance of the staff and management of the facility where the person resides. Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered. The negotiated service agreement shall be reviewed at least annually and upon any change

in a diagnosis for the resident or other condition requiring substantially different additional or replacement services.

(2) A negotiated service agreement shall be based on the person's:

(a) Assessment;

(b) Service needs for activities of daily living;

(c) Need for limited nursing services;

(d) Need for medication assistance;

(e) Frequency of needed services;

(f) Level of assistance, i.e., standby, reminding, total;

(g) Signature and approval of agreement; and

(h) Signing date that the plan was approved and date plan will be reviewed.

(3) The ~~residential contractor~~ administrator shall consult the resident, the resident's family, friends, case manager and/or consumer coordinator, as necessary, in the development of the resident's service agreement.

(4) A copy of the agreement shall be given to the resident and a copy placed in the resident's records file no later than two (2) weeks from admission.

(5) A resident shall be given the choice and control of how and what services the facility ~~will~~ shall provide, or external vendors ~~will~~ shall provide, to the extent the resident can make choices, so long as the resident's choice does not violate the provisions of section 39-3307(1), Idaho Code.

(6) On an exception basis, a record shall be made of any changes or inability to provide services outlined in the negotiated service agreement.

(7) The agreement shall include a statement regarding when there is no need for access to external services.

(8) There shall be documentation of refusal of certain treatments by competent resident or legal health care representative.

SECTION 12. That Section 39-3313, Idaho Code, be, and the same is hereby amended to read as follows:

39-3313. ADMISSION AGREEMENTS. (1) Upon admission to a ~~licensed~~ residential care or assisted living facility, the facility and the resident shall enter into an admission agreement. The admission agreement shall clearly outline who is financially responsible for resident charges and shall clearly outline the facility's resident discharge policies. The agreement shall be in writing and shall be signed by both parties. The board shall promulgate rules governing admission agreements which may be integrated with the negotiated service agreement.

(2) A resident may be discharged for the following:

(a) A resident's failure to pay;

(b) The facility's inability to meet the resident's needs;

(c) The resident's needs are greater than the level of care provided by the specific facility;

(d) The resident is a danger to himself or others.

(3) A resident shall have the right to appeal a discharge as established by department rule.

(4) Should a residential care or assisted living facility choose not to carry professional liability insurance, that information shall be disclosed, in writing, to residents upon admission.

SECTION 13. That Section 39-3315, Idaho Code, be, and the same is hereby amended to read as follows:

39-3315. ADMISSION RECORDS. (1) Records required for admission to a facility shall be maintained and updated for administrative purposes only and shall be confidential. Their availability, subject to Idaho department of health and welfare rules, chapter 1, title 5, shall be limited to administration, professional consultants, the resident's physician or authorized provider, and representatives of the licensing agency. They shall include at least the following information:

(~~1~~a) Name and social security number.

(~~2~~b) Permanent address if other than the facility.

(~~3~~c) Marital status and sex.

(~~4~~d) Birthplace and date of birth.

(~~5~~e) Name, address and telephone number of responsible agent or agency.

(6f) Personal physician or authorized provider. ~~and dentist.~~

(~~7~~g) Admission date. ~~and by whom admitted.~~

(~~8~~h) Results of a physical or health status examination performed by a licensed physician or authorized provider within six (6) months prior to admission.

(~~9~~i) A list of medications, treatments and diet prescribed for the resident which is signed and dated by the physician or authorized provider giving the order(s).

~~(10) The results of an assessment of any developmentally disabled or mentally ill person which support the ability of the facility to meet the needs of the resident.~~

~~(11) Psychosocial history, current within six (6) months prior to admission, completed by a licensed social worker, psychologist, psychiatrist, or licensed physician for clients of the department. For residents who are either developmentally disabled or mentally ill, the psychosocial history shall be performed by either a qualified mental retardation professional or qualified mental health professional.~~

(~~12~~j) Religious affiliation if resident chooses to so state.

(~~13~~k) Interested relatives and friends other than those in ~~subsection~~ paragraph (~~5~~e) of this subsection. Names, addresses and telephone numbers of family members and/or significant others.

(~~14~~l) Resident assessment.

(m) The results of any psychosocial evaluations or histories to ensure all resident needs are being met.

(2) The resident's personal or religious preferences with respect to medical treatment and medications shall be honored.

SECTION 14. That Section 39-3316, Idaho Code, be, and the same is hereby amended to read as follows:

39-3316. RESIDENT RIGHTS. A ~~licensed~~ residential care or assisted living facility must protect and promote the rights of each resident, including each of the following rights:

(1) Resident records. Each facility must maintain and keep current a record of the following information on each resident:

(a) A copy of the resident's current negotiated service agreement and physician's order.

(b) Written acknowledgement that the resident has received copies of the rights.

(c) A record of all personal property and funds which the resident has entrusted to the facility, including copies of receipts for the property.

(d) Information about any specific health problems of the resident which may be useful in a medical emergency.

(e) The name, address and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident.

(f) Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record.

(g) The current admission agreement between the resident and the facility.

(2) Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

(3) Humane care and environment (dignity and respect).

(a) Each resident shall have the right to humane care and a humane environment, including the following:

~~1.~~(i) The right to a diet which is consistent with any religious or health-related restrictions.

~~2.~~(ii) The right to refuse a restricted diet.

~~3.~~(iii) The right to a safe and sanitary living environment.

(b) Each resident shall have the right to be treated with dignity and respect, including:

~~1.~~(i) The right to be treated in a courteous manner by staff.

~~2.~~(ii) The right to receive a response from the facility to any request of the resident within a reasonable time.

(iii) The right to be communicated with, orally and/or in writing, in a language they understand.

(4) Personal possessions. Each resident shall have the right to:

(a) Wear his own clothing.

(b) Determine his own dress or hair style.

(c) Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity.

(d) Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property.

(5) Personal funds. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by department rules.

(a) A facility shall not require a resident to deposit his personal funds with the facility.

(b) Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this subparagraph.

(6) Management of personal funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

(a) The facility must deposit any amount of a resident's personal funds in excess of ~~one-hundred-dollars-($100)~~ five (5) times the personal needs allowance in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a noninterest-bearing account or petty cash fund.

(b) The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

(c) Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the department, the remaining balance of funds shall be refunded to the department.

(7) Access and visitation rights. Each facility must permit:

(a) Immediate access to any resident by any representative of the department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician.

(b) Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives.

(c) Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident.

(d) Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(8) Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the ~~operator~~ administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident shall be consistent with state and federal law.

(9) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records.

(10) Freedom from abuse, neglect, and restraints. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. ~~imposed-for-purposes-of-discipline-or-convenience.~~

(11) Freedom of religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(12) Control and receipt of health-related services. Each resident shall have the right to control his receipt of health-related services, including:

(a) The right to retain the services of his own personal physician, dentist and other health care professionals.

(b) The right to select the pharmacy or pharmacist of ~~his~~ their choice so long as it meets the statute and rules governing residen-

tial care or assisted living and the policies and procedures of the residential care or assisted living facility.

(c) The right to confidentiality and privacy concerning his medical or dental condition and treatment.

(d) The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter.

(13) Grievances. Each resident shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(14) Participation in resident and family groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(15) Participation in other activities. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(16) Examination of survey results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the department with respect to the facility and any plan of correction in effect with respect to the facility.

(17) ~~Other rights. Each resident shall have any other right established by the department.~~ Access by advocates and representatives. A residential care or assisted living facility shall permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to:

(a) Visit, talk with, and make personal, social and legal services available to all residents.

(b) Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals.

(c) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation.

(d) Engage in all other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights.

(e) Communicate privately and without restrictions with any resident who consents to the communication.

(f) Observe all common areas of the facility.

(18) Access by protection and advocacy system. A residential care or assisted living facility shall permit advocates and representatives of the protection and advocacy system designated by the governor pursuant to 42 U.S.C. section 15043 and 42 U.S.C. section 10801 et seq. access to residents, facilities and records in accordance with applicable federal statutes and regulations.

(19) Access by the long-term care ombudsman. A residential care or assisted living facility shall permit advocates and representatives of the long-term care ombudsman program pursuant to 42 U.S.C. section 3058, section 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the office on aging, access to residents, facilities and records in accordance with applicable federal and state law, rules and regulations.

SECTION 15. That Section 39-3318, Idaho Code, be, and the same is hereby amended to read as follows:

39-3318. FACILITY RESPONSE TO INCIDENTS AND COMPLAINTS. (1) In addition to any other requirements of this chapter, the ~~licensed~~ residential care or assisted living facility shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the ~~owner,--licensee,-or-person-designated-by-the-owner-or-licensee-is-notified-of-the-incident,-that-the-owner,-licensee,-or-person-designated--by the--owner-or-licensee~~ administrator or designee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken. In the case of anonymous complaints, the administrator~~/operator~~ or designee shall document the action taken or a reason why no action needs to be taken.

(2) In order to assure the opportunity for complaints from the residents, the neighborhood, and the community to be made directly to the ~~owner,--licensee,-or-person-designated-by-the-owner-or-licensee~~ administrator or designee, each facility shall, ~~establish-a-regular--time--when the--owner,-licensee,-or-person-designated-by-the-owner-or-licensee-will be-present-to-respond-to-such-incidents-or-complaints~~ within a reasonable period of time, meet with a complainant.

SECTION 16. That Section 39-3321, Idaho Code, be, and the same is hereby amended to read as follows:

39-3321. QUALIFICATIONS AND REQUIREMENTS OF ADMINISTRATOR~~/OPERATOR~~. Each ~~licensed~~ residential care or assisted living facility must employ at least one (1) ~~full-time~~ administrator licensed by the ~~board~~ bureau of occupational licensing, which is responsible for licensing residential care facility administrators for the state of Idaho. ~~who:~~

~~(1)--is-of-good-moral-and-responsible-character--and--has--not--been convicted,-or-is-not-under-the-influence-or-control-of-anyone-convicted, of:~~

~~(a)--A--criminal--offense-related-to-the-delivery-of-an-item-or-service-under-medicare,-medicaid-or-other-state-health-care-program;-or~~

~~(b)--A-criminal-offense--related--to--the--neglect--or--abuse--of--a patient,--in--connection--with-the-delivery-of-a-health-care-item-or service;-or~~

~~(c)--A-criminal--offense--related--to--fraud,--theft,--embezzlement, breach--of--fiduciary-responsibility,-or-other-financial-misconduct; or~~

~~(d)--A-criminal-offense-resulting-in-death-or-injury-to-a-person.~~

~~(2)--Has-sufficient-physical,--emotional,--and--mental--capacity--to carry-out-the-requirements-of-this-chapter.~~

~~(3)--Has--sufficient--management-and-administrative-ability-to-carry out-the-requirements-of-this-chapter.~~

Multiple facilities under one (1) administrator may be allowed by the department based on an approved plan of operation.

SECTION 17. That Section 39-3322, Idaho Code, be, and the same is hereby amended to read as follows:

39-3322. QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF. (1) Each facility must employ or arrange for sufficient trained staff to fully meet the needs of its residents and the requirements of this chapter. The facility shall have sufficient staff to provide care during all hours required in each resident's negotiated service plan. Additional staff may be required if physical plant and disability of residents indicate that staff assistance in emergencies is required. Benchmarks shall be established in the assessment criteria where the need for certified nursing assistants or licensed nurses is indicated. ~~Licensed~~ rResidential care or assisted living facilities shall not retain residents who require the care provided by nursing facilities under section 39-1301(b), Idaho Code, other than for short exceptional stays pursuant to negotiated rulemaking as defined in chapter 52, title 67, Idaho Code.

(2) Should a residential care or assisted living facility choose not to carry professional liability insurance, that information shall be disclosed, in writing, to employees at the time of hiring.

SECTION 18. That Section 39-3324, Idaho Code, be, and the same is hereby amended to read as follows:

39-3324. STAFF TRAINING. All employees of a ~~licensed~~ residential care or assisted living facility shall receive ~~department-approved~~ orientation and continuing education pertinent to their job responsibilities.

SECTION 19. That Section 39-3325, Idaho Code, be, and the same is hereby amended to read as follows:

39-3325. REQUIREMENTS FOR LOCATION AND PHYSICAL ENVIRONMENT OF FACILITIES. ~~(1)~~ Licensed residential or assisted living facilities shall:

(~~a~~1) Be located in geographical areas which are accessible to supportive services and are free from conditions which would pose a danger to the residents.

(~~b~~2) Be maintained ~~internally-and-externally--in--good--repair--and condition~~ in such a manner as to be free from fire and/or safety hazards.

~~(c)--Be-maintained-in-a-clean-and-sanitary-manner,-including--proper sewage-disposal,-food-handling,-and-hygiene-practices.~~

~~(d)--Be--maintained--in-such-a-manner-as-to-be-free-from-fire/safety hazards.~~

~~(2)--The--department--shall--promulgate--rules--concerning--physical structure,-fire-safety,-health-and-sanitation,-household-items-and--furnishings,-diet,-self-administered-medications,-and-rooms.~~

SECTION 20. That Chapter 33, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3326, Idaho Code, and to read as follows:

39-3326. MEDICATIONS. The medication policy governed by the policy and procedure of the facility shall include a policy permitting, under the conditions specified, a licensed nurse to fill individual dose systems such as blister pack, mediset, or other system approved by the department. The policy shall provide for appropriate records to maintain security of medications received from a pharmacist in accordance with pharmacy standards. The licensed nurse shall appropriately label the medication with name, dosage, amount and time to be taken, and special instructions if appropriate.

SECTION 21. That Section 39-3330, Idaho Code, be, and the same is hereby amended to read as follows:

39-3330. ~~BOARD AND CARE~~ ADVISORY COUNCIL. (1) The department shall establish a state level ~~board-and-care~~ advisory council consisting of twenty-two (2~~0~~2) members appointed by the ~~director~~ organizations and/or agencies represented on the council. The ~~director, or his designee, shall serve as~~ chairman of the council shall be elected from the membership. The members of the council shall be:

(a) The ~~representative of the department's adult services unit~~ director or his designee.

~~(b) The representative of the department's mental health unit or his designee.~~

~~(c) The representative of the department's developmental disabilities unit or his designee.~~

~~(d)~~ The state ombudsman for the elderly or his designee.

(e~~c~~) The director of the state protection and advocacy system or his designee.

~~(f) An advocate for mentally ill citizens in the state.~~

~~(g) An advocate for physically disabled citizens in the state.~~

(h~~d~~) The director of the state developmental disabilities council or his designee.

(e) The director of the Idaho health care association or his designee.

~~(i) Four (4) administrators or licensees of licensed residential or assisted living facilities, one (1) of whom shall be the president of the state association representing residential or assisted living facilities and two (2) of whom shall be designees representing such association.~~

(f) An advocate for citizens with mental illness in the state.

(g) Five (5) administrators or licensees of residential care or assisted living facilities, one (1) of whom shall be the president of the state association representing the largest number of residential care or assisted living facilities in Idaho, two (2) of whom shall be designees representing such associations, and two (2) at-large designees appointed by the department. The administrators or licensees shall be selected so as to represent residential care or assisted living facilities providing care to the elderly, individuals with mental illness, and individuals with developmental disabilities, respectively.

(~~j~~h) Four (4) certified family home providers~~,--certified--pursuant to this chapter.~~

(~~k~~i) ~~Three~~ Six (~~3~~6) residents, ~~of licensed~~ three (3) of whom reside in residential care or assisted living facilities ~~who are mentally ill, developmentally disabled or physically disabled or--individuals residing~~ and three (3) of whom reside in certified family homes. A resident may be represented by his family member.

(j) The local representative of the American association of retired persons (AARP).

(2) ~~In appointing the first members of--the--council--who--are--not state--agency representatives, the director shall appoint eight (8) members for a term of two (2) years and seven (7) members--for--a--term--of three--(3)--years.--After--the initial appointment,~~ mMembers who are not state agency representatives shall serve three (3) year terms. A vacancy shall be filled for the remainder of the unexpired term from the same class of persons represented by the outgoing member.

SECTION 22. That Section 39-3331, Idaho Code, be, and the same is hereby amended to read as follows:

39-3331. POWERS AND DUTIES OF THE ADVISORY COUNCIL. The ~~board--and~~ residential care or assisted living advisory council shall have the following powers and duties:

(1) To make policy recommendations regarding the coordination of licensing~~, certifying~~ and enforcement standards in residential care or assisted living facilities ~~and certified family homes~~ and the provision of services to residents of residential care or assisted living facilities. ~~and certified family homes.~~

~~(2) To--advise--the department regarding methods for identification of unlicensed residential or assisted living facilities and--uncertified family homes.~~

~~(3)~~ To advise the agency during development and revision of rules.

(~~4~~3) To review and comment upon proposed rules.

(~~5~~4) To submit an annual report to the legislature stating opinions and recommendations which would further the state's capability in addressing residential care or assisted living facility ~~and--certified family home~~ issues.

SECTION 23. That Section 39-3332, Idaho Code, be, and the same is hereby amended to read as follows:

39-3332. MEETINGS. The ~~board and~~ residential care or assisted living advisory council shall meet as necessary but not less than ~~two~~ four (~~2~~4) times a year. Meetings of the council shall be open to the public. The department shall provide:

(1) Staff necessary to assist the council in performing its duties.

(2) Space for meetings of the council.

SECTION 24. That Section 39-3333, Idaho Code, be, and the same is hereby amended to read as follows:

39-3333. REIMBURSEMENT OF EXPENSES. Members of the ~~board and~~ residential care and assisted living advisory council shall be reimbursed by the department for their actual expenses incurred in the performance of

their duties, not to exceed the limits set forth in the state travel guidelines.

SECTION 25. That Section 39-3340, Idaho Code, be, and the same is hereby amended to read as follows:

39-3340. LICENSING. ~~OF RESIDENTIAL OR ASSISTED LIVING FACILITIES FOR THE MENTALLY ILL, DEVELOPMENTALLY DISABLED AND PHYSICALLY DISABLED. After July 1, 1991, no~~ (1) Any person, firm, partnership, association, governmental unit, or corporation within the state ~~and no state or local public agency shall~~ proposing to operate, establish, manage, conduct, or maintain a residential care or assisted living facility in the state ~~without a current valid~~ shall have a license issued by the licensing agency of the department. A license is not transferable. The owner of the license has ultimate responsibility for the operation of the facility.

(2) Each residential care or assisted living facility in the state requires an administrator, properly licensed by the bureau of occupational licensing, who is responsible for the day-to-day operation of the facility.

(3) A license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of operator, ownership, lease or location occurs, the facility shall be relicensed, and the operator shall follow the application procedures, and obtain a license, before commencing operation as a facility. When there is a significant change in an owner's share of the facility, but which does not alter the overall ownership or operation of the business, that change shall be communicated to the licensing agency within sixty (60) days of the effective date of the change. When the owner contracts the operation to a facility management company, other than for temporary management, it shall be treated as a change of operator.

SECTION 26. That Section 39-3345, Idaho Code, be, and the same is hereby amended to read as follows:

39-3345. DENIAL OR REVOCATION OF A LICENSE. The licensing agency may deny the issuance of a license or revoke any license when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of ~~any~~ residents, or when the facility is not in substantial compliance with ~~any~~ the provisions of this chapter or the rules promulgated pursuant to this chapter.

SECTION 27. That Section 39-3349, Idaho Code, be, and the same is hereby amended to read as follows:

39-3349. RESPONSIBILITY FOR INSPECTIONS AND ~~LICENSING NONTRANSFERABILITY OF LICENSES~~ TECHNICAL ASSISTANCE. The licensing agency shall inspect and ~~license~~ provide technical assistance to residential care or assisted living facilities. ~~A license is not transferable~~ The department may provide consulting services upon request to any residential care or assisted living facility to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.

SECTION 28. That Section 39-3351, Idaho Code, be, and the same is hereby amended to read as follows:

39-3351. EXEMPTIONS. The provisions of this chapter do not apply to any of the following:

(1) Any health facility as defined by chapter 13, title 39, Idaho Code.

(2) Any house, institution, hotel, congregate housing project, ~~for the elderly,~~ retirement home or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that ~~have~~ has residents accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility.

(3) Any arrangement for the receiving and care of persons by a relative.

(4) Any similar facility determined by the director.

SECTION 29. That Section 39-3352, Idaho Code, be, and the same is hereby amended to read as follows:

39-3352. UNLICENSED RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES. (1) No unlicensed residential care or assisted living facility ~~which provides services to individuals who are mentally ill, developmentally disabled or physically disabled~~ shall operate in this state.

(2) A facility shall be deemed to be an "unlicensed residential care or assisted living facility" and "maintained and operated to provide services" if it is unlicensed and not exempt from licensure, and any one (1) of the following conditions is satisfied:

(a) The facility is, or is held out as or represented as, providing care, supervision and services.

(b) The facility accepts or retains residents who demonstrate the need for care, supervision, and services, as defined in this chapter or the rules adopted pursuant to this chapter.

(3) Upon discovery of an unlicensed residential care or assisted living facility, ~~which provides services to individuals who are mentally ill, developmentally disabled or physically disabled,~~ the department shall refer residents to the appropriate placement or adult protective services agency if either of the following conditions exist:

(a) There is an immediate threat to the resident's health and safety.

(b) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

(4) A person found to be operating a residential care or assisted living facility ~~which provides services to individuals who are mentally ill, developmentally disabled or physically disabled,~~ without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars ($5,000).

(5) In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the attorney general is authorized to prosecute violations under the provisions of this section.

SECTION 30. That Section 39-3354, Idaho Code, be, and the same is hereby amended to read as follows:

39-3354. WAIVER OR VARIANCE. The board shall provide by rule ~~and regulation~~ a procedure whereby a temporary variance or a permanent waiver of a specific standard may be granted in the event that good cause is shown for such a variance or waiver and providing that a variance or waiver of a standard does not endanger the health and safety of any resident. The decision to grant a variance or waiver shall not be considered as precedent or be given any force ~~of~~ or effect in any other proceeding.

SECTION 31. That Section 39-3354A, Idaho Code, be, and the same is hereby amended to read as follows:

39-3354A. SPECIAL WAIVER PERMITTED. The department may grant a special waiver of the requirement for licensure as a residential care or assisted living facility when it is deemed in the best interests of individuals and with due consideration of the following criteria:

(1) The individuals are residents of a facility operated by a nonprofit health care and/or housing organization established as such in the state of Idaho and satisfying the requirements of U.S. Internal Revenue Code section 501(c) as a nonprofit;

(2) The support services required by the individuals are furnished by an entity approved to provide such services in the state of Idaho in good standing as demonstrated by routine inspections required for the type of entity providing services;

(3) Facilities seeking such waivers and providing meal service shall be inspected and licensed as a food service establishment by the district health department unless the meal service is provided by a kitchen already part of a facility licensed by the department;

(4) The costs of obtaining the needed services from another source are significantly greater and/or would pose a significant hardship on these individuals.

Any waiver granted under this section shall be reviewed annually and is subject to inspection by the department to ensure safety and sanitation.

SECTION 32. That Section 39-3355, Idaho Code, be, and the same is hereby amended to read as follows:

39-3355. INSPECTIONS. (1) The licensing agency shall cause to be made such inspections and investigations ~~at least every twelve (12) months~~ to determine compliance with this chapter and applicable rules.

(2) ~~All i~~Inspections for such purposes will be made unannounced and without prior notice at the discretion of the department and at intervals determined by the licensing agency.

(3) An inspector shall have full access and authority to examine, among other things, quality of care and service delivery, a facility's records, resident accounts, physical premises, including buildings, grounds and equipment, and any other areas necessary to determine compliance with this chapter and applicable rules.

(4) An inspector shall have authority to interview the licensee, administrator~~/operator~~, staff and residents. Interviews with residents

shall be confidential and conducted privately unless otherwise specified by the resident.

(5) The licensing agency shall notify the facility, in writing, of all deficiencies and shall approve a reasonable length of time for compliance by the facility.

(6) Current lists of deficiencies, including plans of correction, shall be available to the public upon request in the individual facilities or by written request to the ~~regional office of the department or the licensing agency~~ department.

SECTION 33. That the Heading for Chapter 35, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 35

~~RESIDENTIAL CARE FOR THE ELDERLY~~ IDAHO CERTIFIED FAMILY HOMES

SECTION 34. That Chapter 35, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3501, Idaho Code, and to read as follows:

39-3501. LEGISLATIVE INTENT AND DECLARATION. The purpose of a certified family home in Idaho is to provide a homelike alternative designed to allow individuals to remain in a more normal family-styled living environment, usually within their own community. Certified family homes provide a home to individuals who are elderly, individuals with a mental illness, developmental disabilities, physical disabilities or to those unable to live alone, and whose mental, emotional and physical condition can be met by the care provider to delay the need for more expensive congregate care or other institutional care. The home must obtain a waiver under section 39-1301A, Idaho Code, to care for two (2) persons requiring care described in section 39-1301(b), Idaho Code.

It is the intent of the legislature that certified family homes be available to meet the needs of those residing in these homes while providing a more homelike environment focused on integrated community living rather than other more restrictive environments and by recognizing the capabilities of individuals to direct their own care.

The certified family home shall be operated by a provider who has demonstrated the knowledge and experience required to provide safe and appropriate services to each resident of the certified family home. The provider shall protect each resident's rights and provide appropriate services to meet each resident's needs. For those residents whose care is not paid with public funds, the certified family home shall conduct an objective, individualized assessment to determine resident needs, develop a comprehensive negotiated plan of service to meet those needs, deliver appropriate services to meet resident needs and ensure resident rights are honored.

The department is responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to: monitoring the condition of the certified family home, ensuring that each resident has an individualized written plan of care that includes activities of daily living and support services, and managing enforcement procedures when violations occur.

SECTION 35. That Section 39-3502, Idaho Code, be, and the same is hereby amended to read as follows:

39-3502. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Activities of daily living" means the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

~~(2)--"Administrator/operator"-means-any-person-who-has--responsibility-for-day-to-day-administration-or-operation-of-a-licensed-residential or-assisted-living-facility-for-the-elderly.~~

~~(3)~~ "Adult" means a person who has attained the age of eighteen (18) years.

(~~4~~3) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by the ~~facility~~ certified family home.

(~~5~~4) "Assessment" means the conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral. The assessment criteria shall be developed by the department and ~~relevant-councils-for-determining-a-person's-need-for-care-and-services~~ the advisory council.

(~~6~~5) "Board" means the board of health and welfare.

(~~7~~6) "Care provider" means an the adult member ~~or-members~~ of the home family responsible for maintaining the certified family home. The care provider~~(s)~~ and the legal owner may not necessarily be the same person. The care provider must live in the home.

~~(8)--"Certificate"-means-a-one-(1)-year-certificate--issued--by--the certifying--agent--of-the-department-to-certified-family-homes-complying with-this-chapter.~~

(~~9~~7) "Certified family home" means a ~~family-home~~ family-styled living environment in which two (2) or fewer adults ~~are-placed-to~~ live who are not able to reside in their own home and who require ~~family~~ care, help in daily living, protection and security, ~~(may-be-referred-to-as--a "home").--Notwithstanding--the--foregoing,-upon-application-by-the-owner the-department-may-authorize-not-more-than-four-(4)-adults-to-be--placed in-a-certified-family-home-which-is-owner-occupied~~ supervision, personal assistance and encouragement toward independence.

(~~10~~8) "Certifying agent" means a person acting under the authority of the department to participate in the certification, inspection, and regulation of a family home.

(9) "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.

(~~11~~10) "Client" means any person who receives financial aid and/or services from an organized program of the department.

~~(12)-"Continuing"-means-personal-assistance-services--required--over an-extended-period-of-time.~~

(11) "Core issues" means abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives and department certification staff are denied access to records, residents, or the certified family home.

(1~~3~~2) "Department" means the Idaho department of health and welfare.

(1~~4~~3) "Director" means the director of the Idaho department of health and welfare.

~~(15) "Facility" means a licensed residential or assisted living facility for the elderly or certified family home.~~

(14) "Exploitation" means the misuse of a vulnerable adult's funds, property or resources by another person for profit or advantage.

(1~~6~~5) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board or other agency thereof.

(1~~7~~6) "Home family" means all individuals related by blood, ~~or~~ marriage, or adoption, other than residents, residing in the certified family home.

(17) "Inadequate care" occurs when a certified family home fails to provide the services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, or a safe living environment; or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of section 39-3507, Idaho Code.

~~(18) "License" means a basic permit to operate a licensed residential or assisted living facility for the elderly.~~

~~(19) "Licensee" means the holder of a license to operate a licensed residential or assisted living facility for the elderly under this chapter.~~

~~(20) "Licensing agency" means the unit of the department of health and welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter.~~

~~(21) "Mixed populations" means that two (2) or more of the following populations: mentally ill, developmentally disabled, physically disabled, and/or elderly, are provided care and/or housing within the facility.~~

(18) "Neglect" means failure to provide food, clothing, shelter, or medical care necessary to sustain life and health of a resident.

(~~22~~19) "Negotiated service agreement" means the agreement reached by the resident ~~and~~/or their representative, if applicable, and the facility, based on the assessment, physician's orders if any, admission records if any, and desires of the ~~client~~ resident, and which outlines services to be provided and the obligations of ~~facility~~ the certified family home and the resident.

~~(23) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.~~

(2~~4~~0) "Personal assistance" means the provision by the ~~staff of the facility~~ certified family home of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

~~(25) "Authorized provider" means an individual who is a nurse prac-~~

~~titioner or clinical nurse specialist, licensed by the Idaho state board of nursing, or a physician assistant, licensed by the Idaho state board of medicine.~~

(26) "Political subdivision" means a city or county.

(27) "Representative of the department" means an employee of the department.

(28) "Resident" means an adult who lives in a ~~licensed residential or assisted living facility or~~ certified family home and who requires personal assistance or supervision.

~~(29) "Residential or assisted living council for the elderly" means the interdisciplinary group appointed by the director to advise the agency and legislature on matters of policy relating to residential or assisted living facilities for the elderly.~~

~~(30) "Residential or assisted living facility for the elderly" means a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more elderly adults not related to the owner.~~

(31) "Room and board" means lodging and meals.

(32) "Substantial compliance" means ~~there are~~ a certified family home has no core issue deficiencies. ~~which endanger the health, safety or welfare of the residents. It also means deficiencies affecting resident welfare including resident rights, resident property, and the opportunity, where appropriate, to work and be involved in recreation and education opportunities in the community.~~

(26) "Substitute caregiver" means an adult designated by the certified family home provider to provide care and services in a certified family home in the temporary absence of the regular care provider.

(33) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and ~~assistance with~~ monitoring activities. ~~of daily living.~~ The ~~operator~~ care provider is responsible for providing appropriate supervision based on each resident's negotiated service agreement.

(34) "Supportive services" means the specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident.

SECTION 36. That Section 39-3506, Idaho Code, be, and the same is hereby amended to read as follows:

39-3506. STATE ~~LICENSING~~ CERTIFICATION TO SUPERSEDE LOCAL REGULATION. The provisions of this chapter, and the rules promulgated pursuant to this chapter, shall supersede any program of any political subdivision of the state which licenses or sets standards for ~~residential or assisted living facilities for the elderly~~ certified family homes.

SECTION 37. That Section 39-3507, Idaho Code, be, and the same is hereby amended to read as follows:

39-3507. ADMISSIONS. ~~(1)~~ A ~~licensed residential or assisted living facility for the elderly~~ certified family home shall not admit or retain any resident requiring a level of services or type of service ~~for~~ which the ~~facility is not licensed or which the facility does not provide or arrange for, or if the facility~~ certified family home does not have the

~~staff,--appropriate--in--numbers-and-with~~ time or appropriate skills~~,~~ to provide.

~~(2)--The-department-shall--develop--rules--governing--admissions--to licensed-residential-or-assisted-living-facilities-for-the-elderly.~~

SECTION 38. That Section 39-3508, Idaho Code, be, and the same is hereby amended to read as follows:

39-3508. ASSESSMENT. The department shall ~~develop~~ employ uniform assessment criteria to assess functional and cognitive disability. The conclusions shall be deemed the assessment and shall be used to provide appropriate placement and funding for service needs. ~~The-assessment shall-also-be-used-to-ensure-funding-is-cost-effective--and--appropriate when--compared-to-other-state-programs-relevant-to-the-needs-of-the-client-being-assessed.-The-department-shall-develop-rules-regarding:~~

~~(1)--Qualifications-of-persons-making-assessments.~~

~~(2)--Department's-responsibility-for-state-pay-clients.~~

~~(3)--Time-frames-for-completing-an-assessment.~~

~~(4)--Information-to-be-included-in-an-assessment.~~

~~(5)--Use-of-an--assessment--in--developing--the--negotiated--service agreement.~~

~~(6)--Use-of-assessments-in-determining-facility-staffing-ratios.~~

~~(7)--Use--of-assessments-for-determining-the-ability-of-provider-and facility-to-meet-residents'-needs-and-special-training-or-licenses--that may-be-required-in-caring-for-certain-residents.~~

SECTION 39. That Section 39-3509, Idaho Code, be, and the same is hereby amended to read as follows:

39-3509. NEGOTIATED SERVICE AGREEMENT OR PLAN OF SERVICE. ~~(1)~~ Each resident shall be provided a negotiated service agreement or plan of service to provide for coordination of services and for guidance of the ~~staff--and--management--of--the--facility~~ care provider where the person resides. Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered.

~~(2)--A-negotiated-service-agreement-shall-be-based-on-the-person's:~~

~~(a)--Assessment;~~

~~(b)--Service-needs-for-activities-of-daily-living;~~

~~(c)--Need-for-limited-nursing-services;~~

~~(d)--Need-for-medication-assistance;~~

~~(e)--Frequency-of-needed-services;~~

~~(f)--Level-of-assistance,-i.e.,-standby,-reminding,-total;~~

~~(g)--Signature-and-approval-of-agreement;-and~~

~~(h)--Signing--date--that-the-plan-was-approved-and-date-plan-will-be reviewed.~~

~~(3)--The-residential-contractor--shall--consult--the--resident,--the resident's--family,-friends,-case-manager-and/or-consumer-coordinator-in the-development-of-the-resident's-service-agreement.~~

~~(4)--A-copy-of-the-agreement-shall-be-given-to-the--resident--and--a copy--placed--in-the-resident's-records-file-no-later-than-two-(2)-weeks from-admission.~~

~~(5)--A-resident-shall-be-given-the-choice-and--control--of--how--and what--services--the-facility-will-provide,-or-external-vendors-will-pro-~~

~~vide,-to-the-extent-the-resident-can-make-choices.~~

~~(6)--On-an-exception-basis,-a-record-shall-be-made-of-any-changes-or inability-to-provide-services-outlined-in-the-negotiated-service--agreement.~~

~~(7)--The-agreement-shall-include-a-statement-regarding-when-there-is no-need-for-access-to-external-services.~~

SECTION 40. That Chapter 35, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3511, Idaho Code, and to read as follows:

39-3511. ADVISORY COUNCIL. (1) The department shall establish a state level advisory council consisting of twenty-two (22) members appointed by the organizations and/or agencies represented on the council. The chairman of the council shall be elected from the membership. The members of the council shall be:

(a) The director or his designee;

(b) The state ombudsman for the elderly or his designee;

(c) The director of the state protection and advocacy system or his designee;

(d) The director of the state developmental disabilities council or his designee;

(e) The director of the Idaho health care association or his designee;

(f) An advocate for citizens with mental illness in the state;

(g) Four (4) certified family home providers;

(h) Five (5) administrators or licensees of residential care or assisted living facilities, one (1) of whom shall be the president of the state association representing the largest number of residential care or assisted living facilities in Idaho, two (2) of whom shall be designees representing such associations, and two (2) at-large designees appointed by the department. The administrators or licensees shall be selected so as to represent residential care or assisted living facilities providing care to the elderly, individuals with mental illness, and individuals with developmental disabilities, respectively;

(i) Six (6) residents, three (3) of whom reside in residential care or assisted living facilities and three (3) of whom reside in certified family homes. A resident may be represented by his family member; and

(j) The local representative of the American association of retired persons (AARP).

(2) Members who are not state agency representatives shall serve three (3) year terms. A vacancy shall be filled for the remainder of the unexpired term from the same class of persons represented by the outgoing member.

SECTION 41. That Section 39-3516, Idaho Code, be, and the same is hereby amended to read as follows:

39-3516. RESIDENT RIGHTS. A ~~licensed-residential-or-assisted-living facility-for-the-elderly~~ certified family home must protect and promote the rights of each resident, including each of the following rights:

(1) Resident records. Each ~~facility~~ certified family home must

maintain and keep current a record of the following information on each resident:

(a) A copy of the resident's current negotiated plan of service ~~agreement~~ and physician's ~~order~~ history and physical that includes current medications and special treatments.

(b) Written acknowledgement that the resident has received copies of the rights.

(c) A record of all personal property and funds which the resident has entrusted to the ~~facility~~ certified family home, including copies of receipts for the property.

(d) Information about any specific health problems of the resident which may be useful in a medical emergency.

(e) The name, address and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident.

(f) Any other health-related, emergency or pertinent information which the resident requests the ~~facility~~ certified family home to keep on record.

(g) The current admission agreement between the resident and the ~~facility~~ certified family home.

(2) Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

(3) Humane care and environment (dignity and respect).

(a) Each resident shall have the right to humane care and a humane environment, including the following:

(i) The right to a diet which is consistent with any religious or health-related restrictions.

(ii) The right to refuse a restricted diet.

(iii) The right to a safe and sanitary living environment.

(b) Each resident shall have the right to be treated with dignity and respect, including:

(i) The right to be treated in a courteous manner by staff.

(ii) The right to receive a response from the ~~facility~~ certified family home to any request of the resident within a reasonable time.

(4) Personal possessions. Each resident shall have the right to:

(a) Wear his own clothing.

(b) Determine his own dress or hair style.

(c) Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity.

(d) Be provided a separate storage area in his own living area and at least one (1) ~~locked~~ lockable cabinet or drawer for keeping personal property if requested by the resident.

(5) Personal funds. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by department rules.

(a) A ~~facility~~ certified family home shall not require a resident to deposit his personal funds with the ~~facility~~ certified family home.

(b) Once the ~~facility~~ certified family home accepts the written authorization of the resident, the ~~facility~~ certified family home

must hold, safeguard and account for such personal funds under a system established and maintained by the ~~facility~~ certified family home in accordance with this subparagraph.

(6) Management of personal funds. Upon a ~~facility's~~ certified family home's acceptance of written authorization of a resident, the ~~facility~~ certified family home must manage and account for the personal funds of the resident deposited with the ~~facility as follows:~~ certified family home.

~~(a) The facility must deposit any amount of a resident's personal funds in excess of one hundred dollars ($100) in an interest-bearing account, or accounts, that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a noninterest-bearing account or petty cash fund.~~

~~(b) The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident, or a legal representative of the resident, reasonable access to such record.~~

~~(c)~~ Upon the death of a resident with such an account, the ~~facility~~ certified family home must promptly convey the resident's personal funds, and a final accounting of such funds, to the individual administering the resident's estate. For clients of the department, the remaining balance of funds shall be refunded to the department.

(7) Access and visitation rights. Each ~~facility~~ certified family home must permit:

(a) Immediate access to any resident by any representative of the department, by the state ombudsman for the elderly or his designee, or by the resident's individual physician.

(b) Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives.

(c) Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident.

(d) Reasonable access to a resident by any entity or individual that provides health, social, legal or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(e) Access by protection and advocacy system. The certified family home shall permit advocates and representatives of the protection and advocacy system designated by the governor pursuant to 42 U.S.C. 15043 and 42 U.S.C. 10801 et seq. access to residents, certified family homes and records in accordance with applicable federal law and regulations.

(8) Employment. Each resident shall have the right to refuse to perform services for the ~~facility~~ certified family home except as contracted for by the resident and the ~~operator of the facility~~ care provider of the home. If the resident is hired by the ~~facility~~ certified family home to perform services as an employee of the ~~facility~~ home, the wage paid to the resident shall be consistent with state and federal law.

(9) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records.

(10) Freedom from abuse, neglect and restraints. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. ~~imposed for purposes of discipline or convenience.~~

(11) Freedom of religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(12) Control and receipt of health-related services. Each resident shall have the right to control his receipt of health-related services, including:

(a) The right to retain the services of his own personal physician, dentist and other health care professionals.

(b) The right to select the pharmacy or pharmacist of his choice.

(c) The right to confidentiality and privacy concerning his medical or dental condition and treatment.

(13) Grievances. Each resident shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the ~~facility~~ certified family home to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(14) ~~Participation in resident and family groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.~~

~~(15)~~ Participation in other activities. Each resident shall have the right to participate in social, religious and community activities that do not interfere with the rights of other residents in the ~~facility~~ certified family home.

(16~~5~~) Examination of ~~survey results~~ home inspection reports. Each resident shall have the right to examine, upon reasonable request, the results of the most recent ~~survey~~ home inspection of the ~~facility~~ certified family home conducted by the department with respect to the ~~facility~~ certified family home and any plan of correction in effect with respect to the ~~facility~~ certified family home.

~~(17) Other rights. Each resident shall have any other right established by the department.~~

SECTION 42. That Section 39-3519, Idaho Code, be, and the same is hereby amended to read as follows:

39-3519. ACCESS BY ADVOCATES AND REPRESENTATIVES. A ~~licensed residential or assisted living facility for the elderly~~ certified family home shall permit advocates and representatives of community legal services programs, including the protection and advocacy system pursuant to 42 U.S.C. 15043 and 42 U.S.C. 10801 et seq., whose purposes include rendering assistance without charge to residents, to have access to the ~~facility~~ certified family home at reasonable times. ~~in order to:~~

~~(1) Visit, talk with, and make personal, social and legal services available to all residents.~~

~~(2)--Inform--residents--of--their-rights-and-entitlements,-and-their corresponding-obligations-under-state,-federal-and-local-laws-by-distribution-of-educational-materials-and-discussion-in-groups-and-with--individuals.~~

~~(3)--Assist--residents--in--asserting--their--legal-rights-regarding claims-for-public-assistance,-medical--assistance--and--social--security benefits,--as--well--as--in--all--other--matters--in-which-residents-are aggrieved,-which-may-be-provided-individually-or-in-a-group--basis,--and may-include-organizational-activity,-counseling-and-litigation.~~

~~(4)--Engage--in--all-other-methods-of-assisting,-advising-and-representing-residents-so-as-to-extend-to-them-the-full--enjoyment--of--their rights.~~

~~(5)--Communicate--privately--and-without-restrictions-with-any-resident-who-consents-to-the-communication.~~

~~(6)--Observe-all-common-areas-of-the-facility.~~

SECTION 43. That Section 39-3561, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~1~~05. RULES. The board shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the standards for certified family homes pursuant to this act including, but not limited to, the following:

(1) A home shall be certified for no more than two (2) adults, however, upon an application by the owner and upon a finding by the department that residents can be cared for safely and appropriately based on the residents' specific needs, the department may authorize not more than four (4) adults to be placed in a certified family home which is owner-occupied and which applies to the department for the authorization. Certification as a four (4) resident certified family home shall not be transferable to another person or entity. Four (4) resident certified family homes shall be subject to all statutes and rules governing certified family homes but shall not be subject to the residential care facility administrator licensing requirements of chapter 42, title 54, Idaho Code, or section 39-3340, Idaho Code, licensing of residential care or assisted living facilities for ~~the~~ individuals with mental~~ly~~ illness, developmental~~ly-disabled~~ disabilities ~~and~~ or physical~~ly--disabled,~~ disabilities. ~~or-section-39-3540,-Idaho-Code,-licensing-of-residential-or-assisted-living-facilities-for-the--elderly.~~ This provision implementing four (4) resident certified family homes shall be effective on July 1, 2001. ~~Prior-to-the-effective-date,-t~~The department shall promulgate rules for four (4) resident certified family homes through the negotiated rulemaking process. Nothing in this subsection shall be construed to authorize increased group size for providers of any form of care other than certified family homes.

(2) A care provider ~~may-be-a-couple-or-a-single-individual~~ is the adult who has applied to be the care provider and who is responsible for client care and following the laws and rules of the certified family home program.

(3) A home cannot be approved as certified for family home care if it also provides room and board for other persons. A waiver may be granted by the department where a married couple wishes to live together in the same certified family home and one (1) member of the couple does not require certified family home care.

(4) A home cannot be approved as a certified family home and for child foster care at the same time, unless a waiver is granted by the department.

(5) The care provider must have sufficient ~~income~~ resources to maintain the home and the services offered.

(6) Information obtained by the care provider shall be held confidential except to representatives of the department to provide services or determine compliance with this chapter or upon consent of the individual or his legal guardian.

(7) Recordkeeping and reporting requirements as may be deemed necessary.

(8) Requirements to assure the safety and adequate care of residents to include the recording of incidents and accidents.

~~(9) Until July 1, 1994, residential care facilities serving four (4) or fewer residents and holding a valid license or with an application for a license pending with the department as of July 1, 1994, shall have the option of being certified as a certified family home. Certification as a certified family home under this subsection shall not be transferable to another person or entity. Certified family home providers certified under this subsection shall not be subject to the licensing requirements of chapter 42, title 54, Idaho Code, section 39-3340, Idaho Code, or section 39-3540, Idaho Code. This provision in and of itself shall not be construed to authorize increased group size for providers of any form of care other than certified family homes~~ Management of medications.

(10) Inspections. The certifying agency may inspect and investigate certified family homes as necessary to determine compliance with this chapter and the department's rules.

(11) Revocation of certification or other enforcement actions.

SECTION 44. That Section 39-3562, Idaho Code, be, and the same is hereby amended to read as follows:

39-3562~~0~~. APPLICATION FOR CERTIFICATION. An application for certification shall be made to regional offices of the department upon forms provided by the department and shall contain such information as the department reasonably requires which will include a background check and fingerprinting ~~with the Idaho state police~~ through the department. Following receipt of an application, the department shall conduct a study, including a visit to the home, to determine the capability of the provider to provide care as a certified family home.

SECTION 45. That Section 39-3563, Idaho Code, be, and the same is hereby amended to read as follows:

39-3563~~2~~1. ISSUANCE AND RENEWAL OF CERTIFICATION. Each certificate shall be issued only for the home and provider named in the application and shall not be transferable or assignable. Each certified family home is required to renew its certification annually. The application for renewal shall be filed with the regional office of the department within thirty (30) days prior to the date of expiration. The existing certificate, unless suspended or revoked, shall remain in force and effect until the department has acted upon the application renewal when such application for renewal is timely filed.

SECTION 46. That Section 39-3564, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~4~~22. ~~TEMPORARY~~ PROVISIONAL CERTIFICATION. Upon initial investigation, should an applicant for a certificate be unable to meet a standard because of conditions that are unlikely to endure beyond six (6) months, the department may grant a ~~temporary~~ provisional certificate pending the satisfactory correction of all deficiencies and provided that the deficiencies do not jeopardize the health and safety of residents. No more than one (1) provisional certificate shall be issued to the same certified family home in any twelve (12) month period.

SECTION 47. That Section 39-3565, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~5~~23. DENIAL OR REVOCATION OF A CERTIFICATE. The department may deny the issuance of a certificate or revoke any certificate when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident, or when the home is not in substantial compliance with the provisions of this chapter or rules promulgated pursuant to this chapter.

SECTION 48. That Section 39-3566, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~6~~24. PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the department shall notify the applicant in writing. ~~Within twenty-one (21) days after the department mails the notice, the applicant may present his written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing.~~ The proceedings shall be conducted in accordance with the Idaho administrative procedure act and the department's ~~has all the powers granted therein~~ rules.

SECTION 49. That Section 39-3567, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~7~~25. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE. The department is not required to review the application of an applicant who has had a certificate denied or revoked until five (5) years have elapsed from the date of certificate denial, revocation, or appeals.

SECTION 50. That Section 39-3568, Idaho Code, be, and the same is hereby amended to read as follows:

39-356~~8~~26. RULES PROVIDED. Upon initial certification, certified family homes shall be provided a printed copy of all applicable statutes and rules by the department, without charge.

SECTION 51. That Chapter 35, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3527, Idaho Code, and to read as follows:

39-3527. RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSISTANCE. The certifying agency shall inspect and provide technical assistance to certified family homes. The department may provide consulting services upon request to any certified family home to assist in the identification and correction of deficiencies and in the upgrading of the quality of care provided by the certified family home.

SECTION 52. That Section 39-3571, Idaho Code, be, and the same is hereby amended to read as follows:

39-357~~1~~28. OPERATING WITHOUT CERTIFICATION -- MISDEMEANOR. Any person who operates a certified family home within the state without first obtaining certification as provided in this chapter shall be guilty of a misdemeanor.

SECTION 53. That Section 39-3575, Idaho Code, be, and the same is hereby amended to read as follows:

39-357~~5~~03. PAYMENT AGREEMENTS. Each care provider shall negotiate a written, signed and dated agreement between the care provider and a resident specifying the amount of monthly payment to be paid by the resident and the method for payment.

SECTION 54. That Section 39-3577, Idaho Code, be, and the same is hereby amended to read as follows:

39-357~~7~~13. TRAINING. The department shall ~~insure~~ assure that care providers receive, at a minimum, training which shall include the rights of the resident, and a basic understanding of the psychosocial and physical needs of residents to be served. The department will ~~specify~~ require annual continuing education requirements for care providers as defined by rules promulgated pursuant to this chapter.

SECTION 55. That Section 39-3578, Idaho Code, be, and the same is hereby amended to read as follows:

39-357~~8~~04. PHYSICAL AND ENVIRONMENTAL STANDARDS. Standards shall be developed through the regulatory process by the department to ~~insure~~ assure a safe, sanitary and comfortable environment for residents of certified family homes.

SECTION 56. That Section 39-3579, Idaho Code, be, and the same is hereby amended to read as follows:

39-357~~9~~10. SEPARABILITY. If any section, subsection, paragraph, sentence, or any other part of this chapter is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined to this section, subsection, paragraph, sentence, or any other part of this chapter directly involved in the controversy in which the judgment has been rendered.

SECTION 57. That Section 39-3580, Idaho Code, be, and the same is hereby amended to read as follows:

39-358~~0~~12. APPLICATION OF PROVISIONS. ~~The--provisions-of-section 39-3509,-Idaho-Code,-governing-licensed-residential-or--assisted--living facilities,--shall--also--govern--certified-family-homes.~~ Any individual providing care and housing commercially to the elderly, ~~general--public~~ or individuals with mental illness, developmental disabilities, or physical disabilities shall at a minimum meet the requirements of this chapter or other provision of law governing care and housing for the elderly, individuals with mental illness, developmental disabilities, or physical disabilities if those provisions are more restrictive.

SECTION 58. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year or before April 15 in which the claim was filed a claimant must be an owner of a homestead and be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars ($5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been

granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property is held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8)(a) or (8)(b) of this section.

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1) year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for the mentally retarded as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(16_4_), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

Approved April 5, 2005.

CHAPTER 281
(H.B. No. 282)

AN ACT

RELATING TO DETERMINATIONS OF MEDICAL INDIGENCY; AMENDING SECTION 31-3502, IDAHO CODE, TO FURTHER DEFINE "RESOURCES" OF AN APPLICANT.

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

SECTION 1. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. Nothing in this definition shall prevent the board of county commissioners and administrator from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care costs program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(2) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Applicant" means any person who is or may be requesting financial assistance under this chapter.

(5) "Reimbursement rates" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" means the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(6) "Board" means the board of county commissioners.

(7) "Obligated persons" means those persons who are legally responsible for an applicant.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.

(10) "Catastrophic health care costs" means all necessary medical expenses for services which are incurred by a recipient for which the reimbursement rate exceeds in aggregate the sum of ten thousand dollars ($10,000) in any twelve (12) consecutive month period.

(11) "Recipient" means an individual determined eligible for necessary medical services under this chapter.

(12) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

(a) Correctional facilities;

(b) Nursing homes or residential or assisted living facilities;

(c) Other medical facility or institution.

(13) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care.

(14) "Provider" means any person, firm, or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services as it appears on an application for assistance pursuant to this chapter.

(15) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient.

(16) "Clerk" means the clerk of the board or his or her designee.

(17) "Resources" means all property, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, all forms of public assistance, crime victim's compensation, worker's compensation, veterans benefits, medicaid, medicare and any other prop-

erty from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services over a period of up to ~~three~~ five (~~3~~5) years. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on the applicant or obligated persons' residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(18) A. "Necessary medical services" means a requested or provided medical service required in order to identify or treat a medically indigent person's health condition, illness or injury and is:

(a) Consistent with the symptoms, diagnosis or treatment of the medical indigent's condition, illness or injury;

(b) In accordance with generally accepted standards of medical or surgical practice then prevailing in the community where the services were provided;

(c) Furnished on an outpatient basis whenever it is safe, efficient and reasonable to do so;

(d) Not provided primarily for the convenience of the medically indigent person or the provider;

(e) The standard, most economical service or item that can safely, reasonably and ethically be provided.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles;

(g) Services provided by, or available to an applicant from state, federal and local health programs; and

(h) Medicaid copayments and deductibles.

Provided however, each board may determine, by ordinance or resolution duly adopted in its county, to include as necessary medical services additional services not covered in this section. Necessary medical services provided by this option shall not be paid by the catastrophic health care costs program, and shall remain the liability of the respective county.

Approved April 5, 2005.

CHAPTER 282
(H.B. No. 283)

AN ACT

RELATING TO VOTING SYSTEMS IN ELECTIONS; AMENDING SECTION 34-2409, IDAHO CODE, TO PROVIDE THAT VOTING SYSTEMS USED IN THE 2004 ELECTION SHALL BE CONTINUED TO BE AUTHORIZED FOR USE AS LONG AS THE VOTING SYSTEM MEETS THE REQUIREMENTS OF THE HELP AMERICA VOTE ACT OF 2002, TO PRO-

VIDE REQUIREMENTS FOR DIRECT RECORDING ELECTRONIC VOTING DEVICES AND TO PROVIDE THAT THE SECRETARY OF STATE MAY PERIODICALLY REVIEW THE VARIOUS VOTING SYSTEMS THAT HAVE BEEN CERTIFIED FOR USE IN THE STATE TO ENSURE THAT THE SYSTEMS MEET CERTAIN STANDARDS AND TO PROVIDE THAT ANY VOTING SYSTEM THAT DOES NOT MEET THE STANDARDS MAY BE DECERTIFIED AFTER A PUBLIC HEARING.

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

SECTION 1. That Section 34-2409, Idaho Code, be, and the same is hereby amended to read as follows:

34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOPTION. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED).

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the "Help America Vote Act of 2002," Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording

electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

Approved April 5, 2005.

CHAPTER 283
(H.B. No. 299)

AN ACT

RELATING TO RESIDENTIAL IMPROVEMENTS EXEMPT FROM PROPERTY TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO ALLOW RESIDENTIAL IMPROVEMENTS TO STILL QUALIFY FOR THE FIFTY-FIFTY HOMEOWNER'S EXEMPTION IF THE RESIDENTIAL IMPROVEMENTS, WHICH PREVIOUSLY QUALIFIED, HAVE 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; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS. (1) During the tax year 1983 and each year thereafter, the first fifty thousand dollars ($50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from property taxation.

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

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the residential improvements are owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The residential improvements 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 an owner-occupied residential property, 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 residential improvements are 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 residential improvements 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 residential improvements for which the owner made application.

(c) The residential improvements described in subsection (3)(b) of this section are 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 residential improvements are owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.

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

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

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

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

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

(d) The taxpayer may appeal to the board of county commissioners the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

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

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

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

(h) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(i) 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) Residential improvements having previously qualified for exemption under this section in the preceding year, shall not lose such qual-

ification 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 residential improvements have 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 improvements would have otherwise qualified under this section, then the board of county commissioners of the county in which the residential improvements are located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved April 5, 2005.

CHAPTER 284
(H.B. No. 319)

AN ACT

RELATING TO PROPERTY TAX; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602HH, IDAHO CODE, TO EXEMPT FROM PROPERTY TAX THE NET TAXABLE VALUE OF ALL PROPERTY OF A TAXPAYER IN EXCESS OF EIGHT HUNDRED MILLION DOLLARS WITHIN A SINGLE COUNTY, TO PROVIDE APPLICATION TO OWNED REAL PROPERTY AND TO OWNED, LEASED OR RENTED PERSONAL PROPERTY, TO PROVIDE THAT LEASED OR RENTED PERSONAL PROPERTY INCLUDED IN THE CALCULATION OF THE EXEMPTION SHALL NOT BE ASSESSABLE AGAINST THE OWNER OF SUCH PROPERTY, TO PROVIDE AN ORDER IN WHICH A TAXPAYER MAY DESIGNATE PROPERTY TO WHICH THE EXEMPTION APPLIES, TO PROVIDE FOR DESIGNATION IN CERTAIN INSTANCES, TO PROVIDE REQUIREMENTS FOR CAPITAL INVESTMENT AND JOBS, TO PROVIDE FOR NO OTHER PROPERTY TAX EXEMPTIONS WITH AN EXCEPTION AND TO PROVIDE FOR RULES; 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 63-602HH, Idaho Code, and to read as follows:

63-602HH. PROPERTY EXEMPT FROM TAXATION -- SIGNIFICANT CAPITAL INVESTMENTS. (1) The net taxable value of all property of a taxpayer in excess of eight hundred million dollars ($800,000,000) located within a

single county in Idaho shall be exempt from property taxation and any special assessment.

(2) The property included in the calculation of the exemption set forth in this section shall include all real property owned, and all personal property owned, leased, or rented that would otherwise be subject to property tax; provided however, with respect to leased or rented personal property, only that portion of the property which a taxpayer is contractually liable for payment of property taxes thereon shall be included in the calculation of the exemption.

(3) Leased or rented personal property, included in the calculation of the exemption provided by this section shall not be assessable against the owner of such property.

(4) The exemption set forth in this section shall apply first to owned real and personal property and, if exhausted, shall then apply to leased or rented personal property.

(5) The taxpayer owning, leasing, or renting the property included in the calculation of the exemption shall designate the property to which the exemption applies.

(6) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, in the immediately preceding calendar year, failed to make significant capital investments of at least twenty-five million dollars ($25,000,000), by the acquisition or improvement of real or personal property located within the county referred to in subsection (1) of this section.

(7) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, as of the first day of such year, did not employ or engage on a regular full-time basis, or the equivalent thereof, at least one thousand five hundred (1,500) workers within the county referred to in subsection (1) of this section.

(8) Except for the exemption provided for in subsection (4) of 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the exemption set forth in subsection (1) of this section applies to any of the same property.

(9) The state tax commission shall adopt all rules that may be necessary to implement this section.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 2005.

Approved April 5, 2005.

CHAPTER 285
(H.B. No. 343)

AN ACT
APPROPRIATING MONEYS TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL FUND FOR THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2006.

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

SECTION 1. There is hereby appropriated $61,800 from the General Fund to be deposited in the State Independent Living Council Fund for the period July 1, 2005, through June 30, 2006.

Approved April 5, 2005.

CHAPTER 286
(H.B. No. 344)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 2006.

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

SECTION 1. There is hereby appropriated $15,260,300 from the General Fund to be deposited in the Catastrophic Health Care Cost Fund for the period July 1, 2005, through June 30, 2006.

Approved April 5, 2005.

CHAPTER 287
(H.B. No. 345)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 2005; 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 369, Laws of 2004, there is hereby appropriated to the Department of Health and Welfare for Self-Reliance Programs the following amounts to be expended from the designated expense classes from the listed funds for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$139,900	$27,500	$18,800	$186,200
Cooperative Welfare Fund (Federal)	139,900	27,500	18,800	186,200
TOTAL	$279,800	$55,000	$37,600	$372,400

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

Approved April 5, 2005.

CHAPTER 288
(H.B. No. 346)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2006.

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

SECTION 1. There is hereby appropriated $9,624,600 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 2005, through June 30, 2006.

Approved April 5, 2005.

CHAPTER 289
(H.B. No. 347)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission for the Blind and Visually Impaired the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 648,200	$ 72,500	$630,100	$1,350,800
Randolph Sheppard Fund		7,200	117,900	125,100
Rehabilitation Revenue and Refunds Fund	41,800	33,700	12,800	88,300
Adaptive Aids and Appliances Fund		46,700		46,700
Federal Grant Fund	1,437,500	412,600	213,300	2,063,400
Miscellaneous Revenue Fund		17,400	9,100	26,500
TOTAL	$2,127,500	$590,100	$983,200	$3,700,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine and fifty-hundredths (39.50) full-time equivalent positions

at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is the intent of the Legislature that the Commission for the Blind and Visually Impaired shall continue to support the State Independent Living Council in fiscal year 2006 at the same level as in fiscal year 2005.

Approved April 5, 2005.

CHAPTER 290
(H.B. No. 348)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 229, LAWS OF 2004, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES AND INDEPENDENT COMMISSIONS AND COUNCILS; AMENDING SECTION 5, CHAPTER 229, LAWS OF 2004, TO REVISE THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 229, Laws of 2004, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:				
FROM:				
General Fund	~~$10,534,000~~	~~$ 5,952,900~~		~~$16,486,900~~
	10,563,500	5,923,300		16,486,800
Cooperative Welfare Fund (Federal)	~~7,128,600~~	~~15,650,200~~		22,778,800
	7,152,800	15,626,000		
Cooperative Welfare Fund (Dedicated)	143,000	358,300		501,300
TOTAL	~~$17,805,600~~	~~$21,961,400~~		~~$39,767,000~~
	17,859,300	21,907,600		39,766,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. INDEPENDENT COMMISSIONS AND COUNCILS:				
A. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
General Fund	$ 12,500			$ 12,500
Domestic Violence Project Fund	~~134,700~~ 164,700	$ ~~100,800~~ 233,400	$ 168,600	~~404,100~~ 566,700
Cooperative Welfare Fund (Federal)	~~33,600~~ 93,600	~~74,500~~ 124,500	~~2,668,200~~ 2,968,200	~~2,776,300~~ 3,186,300
Cooperative Welfare Fund (Dedicated)		21,000		21,000
TOTAL	$ ~~180,800~~ 270,800	$ ~~196,300~~ 378,900	$~~2,836,800~~ 3,136,800	$ ~~3,213,900~~ 3,786,500
B. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
General Fund	$ 75,900	$ 1,100	$ 8,400	$ 85,400
Cooperative Welfare Fund (Federal)	221,300	194,500	31,600	447,400
Cooperative Welfare Fund (Dedicated)		15,000		15,000
TOTAL	$ 297,200	$ 210,600	$ 40,000	$ 547,800
C. COUNCIL ON THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	$ 115,100	$ 21,400		$ 136,500
Cooperative Welfare Fund (Dedicated)		7,500		7,500
Cooperative Welfare Fund (Federal)	19,500	43,500		63,000
TOTAL	$ 134,600	$ 72,400		$ 207,000
DIVISION TOTAL	$ ~~612,600~~ 702,600	$ ~~479,300~~ 661,900	$~~2,876,800~~ 3,176,800	$ ~~3,968,700~~ 4,541,300
GRAND TOTAL	$~~18,418,200~~ 18,561,900	$~~22,440,700~~ 22,569,500	$~~2,876,800~~ 3,176,800	$~~43,735,700~~ 44,308,200

SECTION 2. That Section 5, Chapter 229, Laws of 2004, be, and the same is hereby amended to read as follows:

SECTION 5. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two thousand ~~eight-hundred-ninety-three~~ nine hundred forty-two and sixty-six hundredths (~~2,893.66~~ 2,942.66) full-time equivalent positions at any point during the period July 1, 2004, through June 30, 2005, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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

Approved April 5, 2005.

CHAPTER 291
(H.B. No. 127, As Amended)

AN ACT

RELATING TO SHERIFFS; AMENDING SECTION 31-2224, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WRITTEN TRANSFERS OF PROPERTY FROM FORMER SHERIFFS TO NEW SHERIFFS AND ACKNOWLEDGMENTS OF RECEIPT OF PROPERTY BY NEW SHERIFFS.

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

SECTION 1. That Section 31-2224, Idaho Code, be, and the same is hereby amended to read as follows:

31-2224. DELIVERY OF PROPERTY TO SUCCESSOR -- WRITTEN TRANSFER AND RECEIPT. He must also, at the same time, deliver to the new sheriff a written transfer of the property~~, process, papers and prisoners delivered, specifying the process or order by which each prisoner delivered was committed and detained~~. The new sheriff must thereupon acknowledge, in writing on a duplicate of the transfer, the receipt of the property~~, process, papers and prisoners therein specified~~.

Approved April 6, 2005.

CHAPTER 292
(H.B. No. 230)

AN ACT

RELATING TO AIR QUALITY; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 39-115, IDAHO CODE, TO REVISE PERMIT REQUIREMENTS FOR ANY MAJOR OR MINOR AIR POLLUTION SOURCE IN IDAHO, TO PROVIDE RULES, TO PROVIDE STRINGENCY, TO DEFINE TERMS AND TO PROVIDE APPLICATION TO FUGITIVE EMISSIONS.

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

SECTION 1. STATEMENT OF LEGISLATIVE INTENT. The definition of "regulated air pollutant" for purposes of determining whether permit to construct or permit to operate requirements apply, was intended to comply with but not exceed federal clean air act requirements. The Legislature intends that the Department of Environmental Quality uniformly apply Idaho law in an effort to conform with but not differ from federal definitions of regulated air pollutants. Nevertheless, the United States District Court for Idaho has applied portions of rules of the Department of Environmental Quality for air pollution in a manner which substantially exceeds federal requirements. This act is meant to clarify that Idaho law in this regard has always been intended to comply with but not exceed federal law and should not be construed as a change in the law, but rather a clarification of what the existing law has consistently meant.

SECTION 2. That Section 39-115, Idaho Code, be, and the same is hereby amended to read as follows:

39-115. POLLUTION SOURCE PERMITS.

(1) (a) The director shall have the authority to issue pollution source permits in compliance with rules established hereunder.

(b) To determine the applicability of permit requirements for any major or minor air pollution source in Idaho, the department shall develop and recommend to the board for adoption, rules that define "regulated air pollutant" as follows:

(i) For purposes of a major source permit to operate issued or modified by the department in accordance with title V of the federal clean air act amendments of 1990, "regulated air pollutant" shall have the same meaning as in title V of the federal clean air act amendments of 1990, and any applicable federal regulations promulgated pursuant to title V of the federal clean air act amendments of 1990;

(ii) For purposes of any other operating permit issued or modified by the department, the federal definition of "regulated air pollutant" as defined in subsection (1)(b)(i) of this section shall also apply;

(iii) For purposes of any permit to construct issued or modified by the department pursuant to part D of subchapter I of the federal clean air act, "regulated air pollutant" shall mean those air contaminants that are regulated pursuant to part D of subchapter I of the federal clean air act and applicable federal regulations promulgated pursuant to part D of subchapter I of the federal clean air act; and

(iv) For purposes of any other major or minor permit to construct issued or modified by the department, "regulated air pollutant" shall mean those air contaminants that are regulated pursuant to part C of subchapter I of the federal clean air act and any applicable federal regulations promulgated pursuant to part C of subchapter I of the federal clean air act.

(c) To determine the applicability of any permit to construct or permit to operate requirement to any air pollution source in Idaho, fugitive emissions shall not be included in any applicability calcu-

lation, unless expressly required by 42 U.S.C. section 7401 et seq. The director shall develop and the board shall adopt rules that provide that, for both major and minor source permit applicability determinations, fugitive emissions shall be included only as expressly required by federal law.

(d) The director shall develop and recommend to the board for adoption through rulemaking, criteria to determine insignificant activities and such sources or modification with emissions at or below the de minimis level which shall not require either a permit to construct or a permit to operate; provided however, that a registration of the activities or sources may be required.

(2) The director shall have the authority to sue in competent courts to enjoin any threatened or continuing:

(a) Violations of pollution source permits or conditions thereof without the necessity of a prior revocation of the permit; or

(b) Construction of an industrial or commercial air pollution source without a permit required under this chapter or rules adopted hereunder.

(3) The department is authorized to charge and collect a fee for processing applications for industrial or commercial air pollution source permits in accordance with a fee schedule established by the board pursuant to this chapter. For fees charged for operating permits under title V of the federal clean air act amendments of 1990, the department shall not charge a fee on any hazardous air pollutant other than those listed under section 112 of the federal clean air act. The fee schedule shall be structured to provide an incentive for emission reduction.

(4) The director may issue air emission source permits to construct a facility to incinerate any waste or waste item contaminated with polychlorinated biphenyls (PCBs) only if the director finds:

(a) The facility will not be sited in complex valley terrain where the valley floor is less than five (5) miles wide and the valley walls rise more than one thousand (1,000) feet;

(b) The facility has complied with local planning and zoning requirements;

(c) There has been an opportunity for public participation; and

(d) The facility will employ best available technology and instrumentation.

Subsection (4) of this section shall not apply to incineration activities existing on or before January 1, 1987.

Approved April 6, 2005.

CHAPTER 293
(H.B. No. 322)

AN ACT

RELATING TO TAXATION OF MOTOR FUELS; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF "GASOHOL"; AND DECLARING AN EMERGENCY.

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

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

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

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

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

(2) "Biodiesel" means any fuel or mixture of fuels that is:

(a) Derived in whole or in part from agricultural products or animal fats or the wastes of such products; and

(b) Suitable for use as fuel in diesel engines.

(3) "Bond" means:

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

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

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

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

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

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

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

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

(9) "Gasohol" means gasoline ~~containing a mixture of no more than~~ blended with ten percent (10%) ~~blend~~ or more of anhydrous ethanol.

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

(11) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdi-

vision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels' tax liability or refund.

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

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

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

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

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

(17) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

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

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

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

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

(22) "Special fuels" means:

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

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

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

(23) "Special fuels dealer" means "distributor" under subsection (6) of this section.

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

(25) "Use" means either:

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

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

SECTION 2. 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 6, 2005.

CHAPTER 294
(H.B. No. 324)

AN ACT

RELATING TO THE STATE MEDICAL ASSISTANCE PROGRAM; AMENDING SECTION 56-209d, IDAHO CODE, TO PROVIDE THAT THE COST OF PHYSICIAN, HOSPITAL OR OTHER SERVICES DEEMED EXPERIMENTAL ARE EXCLUDED FROM COVERAGE AND TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE MAY ALLOW COVERAGE OF PROCEDURES OR SERVICES DEEMED INVESTIGATIONAL IF THE PROCEDURES OR SERVICES ARE AS COST EFFECTIVE AS TRADITIONAL, STANDARD TREATMENTS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 56-209d, Idaho Code, be, and the same is hereby amended to read as follows:

56-209d. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED -- EXPERIMENTAL SERVICES OR PROCEDURES EXCLUDED. Notwithstanding any other provision of this chapter, medical assistance shall increase:

(1) Payment as determined under rules established by the director from forty (40) days per fiscal year to unlimited days of inpatient hospital care per state fiscal year.

(2) Payment as determined under rules established by the director from thirty dollars ($30.00) per month to an unlimited amount of prescribed drugs for each recipient.

(3) Provision of eligibility for medical assistance for residents of skilled and intermediate care facilities who meet the medical criteria for medical assistance, from those with countable income of two hundred one and two-tenths percent (201.2%) to those with countable income of three hundred percent (300%) of the SSI standard.

(4) Payment, as authorized by title XIX of the social security act, as amended, and as determined under rules established by the director for:

(a) Durable medical equipment.
(b) Soft organ transplants.
(c) Adult dental services.
(d) Adult vision services.
(e) Adult hearing services.
(f) Prosthetics.
(g) Assistive and augmentative communication devices.

(5) Payment for breast and cervical cancer-related treatment services for persons who are eligible for screening for these cancers under the federal centers for disease control and prevention's national breast and cervical cancer early detection program, and are eligible for medical assistance pursuant to the provisions of the federal "Breast and Cervical Cancer Prevention and Treatment Act of 2000" (Pub. L. 106-354).

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

SECTION 2. This act shall be in full force and effect on and after July 1, 2006.

Approved April 6, 2005.

CHAPTER 295
(H.B. No. 337)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTING; AMENDING SECTION 54-1904A, IDAHO CODE, AS AMENDED BY SECTION 26, HOUSE BILL 263, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE THAT A CONTRACT AWARDING AGENCY SHALL PROVIDE CERTAIN INFORMATION TO THE STATE TAX COMMISSION, TO PROVIDE THAT THE PRIME CONTRACTOR SHALL PROVIDE CERTAIN INFORMATION WITHIN A SPECIFIED TIME TO THE STATE TAX COMMISSION UPON WRITTEN REQUEST AND TO PROVIDE THAT THE STATE TAX COMMISSION SHALL FORWARD CERTAIN INFORMATION; AND AMENDING SECTION 67-2805, IDAHO CODE, AS ADDED BY SECTION 37, HOUSE BILL 263, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE THAT CERTAIN BIDS SHALL BE AWARDED TO THE QUALIFIED BIDDER SUBMITTING THE LOWEST RESPONSIVE BID, TO REVISE REQUIREMENTS APPLICABLE TO NOTICES SOLICITING BIDS AND TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 54-1904A, Idaho Code, as amended by Section 26, House Bill 263, as enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

54-1904A. FILING OF NOTICES AND INCOME TAX RETURNS -- PAYMENT OF INCOME TAXES BY CONTRACTORS. Within thirty (30) days after any public works contractor who is required to be licensed pursuant to this chapter has been awarded a contract for construction to be performed within the state of Idaho involving the expenditure of any public moneys, the contract awarding agency shall notify the state tax commission that the contract has been awarded and shall provide to the state tax commission the name and address of the prime contractor. Upon written request of the state tax commission, the prime contractor, within thirty (30) days, shall file with the state tax commission a signed statement showing the date on which such contract was made or awarded, the names and addresses of the home offices of the contracting parties, including all subcontractors, the state of incorporation if the party is a corporation, the project number and a general description of the type and location of the work to be performed, the amount of the prime contract and all subcontracts, and all other relevant information which may be required on forms which may be prescribed by the state tax commission. ~~with--a copy--to--be--sent--to-the~~ The state tax commission shall forward to the administrator such information from the form as the administrator and the state tax commission agree is necessary for the administrator to fulfill the requirements of section 54-1913, Idaho Code. Every contractor or subcontractor whose name appears on any such notice shall be required to file income tax returns with the state tax commission and to pay all income taxes which may be due thereon pursuant to law for all years in which any public moneys were received by him in connection with any construction work which was performed within the state of Idaho.

SECTION 2. That Section 67-2805, Idaho Code, as added by Section 37, House Bill 263, as enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

67-2805. PROCUREMENT OF PUBLIC WORKS CONSTRUCTION. (1) For any contemplated public works construction project with an estimated total cost of less than fifty thousand dollars ($50,000), where the political subdivision determines that there may be a lack of available licensed contractors, a political subdivision may publish a notice of intent to procure in its official newspaper, concurrently sending such notice to the public works contractors license board, in order to solicit statements of interest from licensed public works contractors to determine whether one (1) or more licensed contractors is interested in submitting bids. Such notice of intent to procure shall be provided by the same means required for published solicitation of competitive bids and shall contain essentially the same information as such published notice. If no licensed public works contractor submits a statement of interest, the political subdivision may purchase public works construction from other than a licensed public works contractor by using the same procurement procedures otherwise specified herein.

(2) When a political subdivision contemplates an expenditure to procure public works construction valued in excess of twenty-five thousand dollars ($25,000) but not to exceed one hundred thousand dollars ($100,000), the procurement procedures of this subsection (2) shall apply:

(a) The solicitation for bids for the public works construction to

be performed shall be supplied to no fewer than three (3) owner-designated licensed public works contractors by written means, either by electronic or physical delivery. The solicitation shall describe the construction work to be completed in sufficient detail to allow an experienced public works contractor to understand the construction project the political subdivision seeks to build.

(b) The solicitation for bids shall describe the electronic or physical delivery method or methods authorized to submit a bid, the date and time by which a bid proposal must be received by the clerk, secretary or other authorized official of the political subdivision, and shall provide a reasonable time to respond to the solicitation, provided that except in the event of an emergency, such time shall not be less than three (3) business days.

(c) Written objections to specifications or bid procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least one (1) business day before the date and time upon which bids are scheduled to be received.

(d) When written bids have been received, by either physical or electronic delivery, they shall be submitted to the governing board or governing board-authorized official which shall approve the responsive bid proposing the lowest procurement price or reject all bids and publish notice for bids, as before.

(e) If the political subdivision finds that it is impractical or impossible to obtain three (3) bids for the proposed public works procurement, the political subdivision may acquire the work in any manner the political subdivision deems best from a qualified public works contractor quoting the lowest price. When fewer than three (3) bids are considered, a description of the efforts undertaken to procure at least three (3) bids shall be documented by the political subdivision and such documentation shall be maintained for at least six (6) months after the procurement decision is made. If two (2) or more price quotations offered by different licensed public works contractors are the same and the lowest responsive bids, the governing board or governing-board authorized official may accept the one (1) it chooses.

(3) When a political subdivision contemplates an expenditure to purchase public works construction valued in excess of one hundred thousand dollars ($100,000), the procurement procedures of this subsection (3) shall apply. The purchase of construction services shall be made pursuant to a competitive sealed bid process with the purchase to be made from the qualified public works contractor submitting the lowest bid price complying with bidding procedures and meeting the prequalifications, if any are provided, established by the bid documents. Competitive bidding for public works may proceed through either of two (2) alternative procedures as set forth below:

(a) Category A. Competitive bidding procedures shall be open to receipt of bids from any licensed public works contractor desiring to bid upon a public works project. For a category A bid, the political subdivision may only consider the amount bid, bidder compliance with administrative requirements of the bidding process, and whether the bidder holds the requisite license, and shall award the bid to the qualified bidder submitting the lowest responsive bid.

(i) The request for bids for a category A procurement shall set a date and place for the public opening of bids. Two (2)

notices soliciting bids shall be published in the official newspaper of the political subdivision. The first notice shall be published at least two (2) weeks before the date for opening bids, with the second notice to be published in the succeeding week at least seven (7) days before the date that bids are scheduled to be opened. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any interested bidder.

(ii) Written objections to specifications or bidding procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which bids are scheduled to be opened. The administrative officer or governing board supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other plan holders, adjusting bidding timeframes if necessary.

(iii) All bids shall be presented or otherwise delivered under sealed cover to the clerk of the political subdivision or other authorized agent of the political subdivision designated by the information provided to bidders by the political subdivision with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.

(iv) If the political subdivision deems it is in the political subdivision's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the political subdivision. The political subdivision may require that the bid security be in one (1) of the following forms:

(A) Cash;

(B) A cashier's check made payable to the political subdivision;

(C) A certified check made payable to the political subdivision; or

(D) A bidder's bond executed by a qualified surety company, made payable to the political subdivision.

(v) Any bid received by the political subdivision may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the governing board for award.

(vi) If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the political subdivision at the sole discretion of the political subdivision and the proceeds shall be deposited in a designated fund out of which the expenses of procuring substitute performance are paid.

(vii) The political subdivision may, on the refusal or failure

of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the governing board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security may be applied by the political subdivision to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security to the owner.

(viii) In its discretion, the governing board may reject all bids presented and re-bid, or the governing board may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If identical bids are received, the governing board may choose the bidder it prefers. If no bids are received, the governing board may procure the goods or services without further competitive bidding procedures.

(ix) If the governing board of any political subdivision chooses to award a competitively bid contract involving the procurement of public works construction to a bidder other than the apparent low bidder, the political subdivision shall declare its reason or reasons on the record and shall communicate such reason or reasons in writing to all persons who have submitted a competing bid.

(x) If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefor. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest.

(b) Category B. Competitive bidding procedures shall be open to licensed public works contractors only after meeting preliminary supplemental qualifications established by the political subdivision. The solicitation for bids in a category B procurement shall consist of two (2) stages, an initial stage determining supplemental prequalifications for licensed contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors.

(i) Notice of the prequalification stage of the category B competitive bidding process shall be given in the same manner that notice of competitive bidding is provided for a category A competitive bid request, providing a specific date and time by which qualifications statements must be received. Political

subdivisions may establish prequalification standards premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the political subdivision, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Such request must include the standards for evaluating the qualifications of prospective bidders.

(ii) During the initial stage of the category B bidding process, licensed contractors desiring to be prequalified to bid on a project must submit a written response to a political subdivision's request for qualifications.

(iii) Written objections to prequalification procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which prequalification statements are due. The administrative officer or governing board supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other contractors seeking to prequalify, adjusting bidding timeframes if necessary. After a review of qualification submittals, the political subdivision may select licensed contractors that meet the prequalification standards. If any licensed contractor submits a statement of qualifications but is not selected as a qualified bidder, the political subdivision shall supply a written statement of the reason or reasons why the contractor failed to meet prequalification standards.

(iv) Any licensed contractor that fails the prequalification stage can appeal any such determination to the governing board within seven (7) days after transmittal of the prequalification results to contest the determination. If the governing board sustains the decision that a contractor fails to meet prequalification standards, it shall state its reason or reasons for the record. A governing board decision concerning prequalification may be appealed to the public works contractors license board no more than fourteen (14) days following any decision on appeal made by the governing board. The public works contractors license board shall decide any such appeal within thirty-five (35) days of the filing of a timely appeal. The public works contractors license board shall allow participation, written or oral, by the appealing contractor and the political subdivision, either by employing a hearing officer or otherwise. The public works contractors license board shall not substitute its judgment for that of the political subdivision, limiting its review to determining whether the decision of the governing board is consistent with the announced prequalification standards, whether the prequalification standards comport with the law and whether the governing board's decision is supported by the entirety of the record. The decision of the public works contractors license board shall be written and shall state the reason or reasons for the decision. Category B prequalification procedures that are appealed shall be stayed during the pendency of the prequalification appeal

until the public works contractors license board completes its review, but in no instance more than forty-nine (49) days after the appellate decision of the governing board regarding prequalification. Any licensed public works contractor affected by a decision on appeal by the public works contractors license board may, within twenty-eight (28) days of the final decision, seek judicial review as provided by chapter 52, title 67, Idaho Code.

(v) Following the conclusion of the prequalification administrative procedures, the bidding stage shall proceed by the setting of a time, date and place for the public opening of bids. ~~A~~ In circumstances involving prequalified prime contractors, a notice soliciting bids shall be transmitted to prequalified bidders at least fourteen (14) days before the date of opening the bids. In circumstances involving prequalified specialty or subordinate contractors, the notice soliciting bids shall be published in the same manner applicable to category A bids. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any ~~prequalified~~ eligible bidder.

(vi) Written objections to specifications or bidding procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which bids are scheduled to be opened.

(vii) All category B bids shall be presented or otherwise delivered under sealed cover to the clerk or other authorized agent of the political subdivision designated by the instructions to bidders with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.

(viii) If the political subdivision deems it is in the political subdivision's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the political subdivision. The political subdivision may require that the bid security be in one (1) of the following forms:

(A) Cash;

(B) A cashier's check made payable to the political subdivision;

(C) A certified check made payable to the political subdivision; or

(D) A bidder's bond executed by a qualified surety company, made payable to the political subdivision.

(ix) Any category B bid received by a political subdivision may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time,

thereafter to be compiled and submitted to the governing board for award. If identical bids are received, the governing board may choose the bidder it prefers. If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the political subdivision, in the sole discretion of the political subdivision, and the proceeds shall be deposited in a designated fund out of which the expenses for procuring substitute performance are paid.

(x) The political subdivision may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the governing board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security, if forfeited, shall be applied by the political subdivision to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security.

(xi) In its discretion, the governing board may reject all bids presented and re-bid, or the governing board may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If no bids are received, the governing board may make the expenditure without further competitive bidding procedures.

(xii) If the governing board of any political subdivision chooses to award a competitively bid contract involving the procurement of public works construction to a bidder other than the apparent low bidder, the political subdivision shall declare its reason or reasons on the record and shall communicate such reason or reasons in writing to all persons who have submitted a competing bid.

(xiii) If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefor. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest.

Approved April 6, 2005.

CHAPTER 296
(H.B. No. 352)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO STATE MATCH.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 890,500	$696,300		$1,586,800
Economic Recovery Reserve Fund		10,000	$521,400	531,400
Miscellaneous Revenue Fund	867,200			867,200
TOTAL	$1,757,700	$706,300	$521,400	$2,985,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-three (33) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Of the moneys appropriated in Section 1 of this act, $496,700 shall be used solely and only to match funds from nonstate sources to replace old television studio equipment. The state match so provided shall not exceed fifty percent (50%). Any unspent and unencumbered state funds remaining on June 30, 2006, shall be deposited in the General Fund.

Approved April 6, 2005.

CHAPTER 297
(H.B. No. 355)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF THE GENERAL FUND; AND SETTING FORTH THE CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Office of the State Appellate Public Defender the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$1,429,400
Operating Expenditures	549,200
Capital Outlay	40,700
TOTAL	$2,019,300
FROM:	
General Fund	$2,019,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than twenty-one (21) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Appellate Public Defender, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of General Fund moneys as appropriated for mitigation and litigation expenses in capital cases for fiscal year 2005, to be used for nonrecurring expenditures, for the period July 1, 2005, through June 30, 2006.

SECTION 4. The reappropriation for the General Fund granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is zero, the reappropriation for the General Fund in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation of the State Appellate Public Defender bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 6, 2005.

CHAPTER 298
(H.B. No. 356)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF THE GENERAL FUND; AND SETTING FORTH THE CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Attorney General the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$13,747,700	$ 655,700	$5,300	$14,408,700
Consumer Protection Fund	66,800	85,300		152,100
TOTAL	$13,814,500	$ 741,000	$5,300	$14,560,800
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$ 951,600		$ 951,600
GRAND TOTAL	$13,814,500	$1,692,600	$5,300	$15,512,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred eighty and sixty-five hundredths (180.65) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Office of the Attorney General for Special Litigation, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of General Fund moneys as appropriated for Special Litigation for fiscal years 2004 and 2005, to be used for nonrecurring expenditures, for the period July 1, 2005, through June 30, 2006.

SECTION 4. The reappropriation for the General Fund granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is zero, the reappropriation for the General Fund in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation of the Office of the Attorney General bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 6, 2005.

CHAPTER 299
(H.B. No. 357)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2006; AND APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND.

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

SECTION 1. There is hereby appropriated to the Supreme Court the following amounts to be expended from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:	
General Fund	$25,104,500
Guardian Ad Litem Fund	430,900
ISTARS Technology Fund	1,811,500
Federal Grant Fund	1,501,800
Miscellaneous Revenue Fund	312,500
Court Services Fund	1,780,100
TOTAL	$30,941,300

SECTION 2. There is hereby appropriated $430,900 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 2005, through June 30, 2006.

Approved April 6, 2005.

CHAPTER 300
(H.B. No. 358)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

IDAHO STATE CAPITOL COMMISSION:	
FOR:	
Personnel Costs	$ 31,600
Operating Expenditures	226,700
TOTAL	$258,300
FROM:	
Capitol Endowment Income Fund	$258,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Capitol Commission is authorized no more than one-tenth (0.1) full-time equivalent position at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Department of Administration for the Idaho State Capitol Commission the unexpended and unencumbered balance of any funds appropriated by Sections 1 and 2, Chapter 139, Laws of 2004, to be used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006.

Approved April 6, 2005.

CHAPTER 301
(H.B. No. 359)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE GENERAL BOARDS FOR FISCAL YEAR 2006; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2006; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE ATHLETIC COMMISSION REVENUES ACCRUING JULY 1, 2005, THROUGH JUNE 30, 2006; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO ANY ATHLETIC COMMISSION BALANCE EXISTING ON JULY 1, 2005.

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

SECTION 1. There is hereby appropriated to the Department of Self-Governing Agencies for the general boards the following amounts to be expended for the designated program according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON HISPANIC AFFAIRS:				
FROM:				
General Fund	$ 89,700	$ 23,100		$112,800
Federal Grant Fund	48,400	87,600	$19,200	155,200
Miscellaneous Revenue Fund	48,500	39,500		88,000
TOTAL	$186,600	$150,200	$19,200	$356,000

SECTION 2. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory Fund	$ 178,900	$ 136,900	$ 3,000	$ 318,800
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory Fund	$ 673,200	$ 635,600	$24,500	$1,333,300
III. BOARD OF NURSING:				
FROM:				
State Regulatory Fund	$ 475,300	$ 311,500	$12,100	$ 798,900
IV. BOARD OF OPTOMETRY:				
FROM:				
State Regulatory Fund	$ 2,500	$ 54,400		$ 56,900
V. BOARD OF PHARMACY:				
FROM:				
State Regulatory Fund	$ 603,800	$ 228,400	$35,800	$ 868,000
VI. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory Fund	$ 101,200	$ 75,900	3,000	$ 180,100
GRAND TOTAL	$2,034,900	$1,442,700	$78,400	$3,556,000

SECTION 3. There is hereby appropriated to the Department of Self-Governing Agencies for the regulatory boards the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 7,500	$ 31,100			$ 38,600
II. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 224,400	$ 230,700			$ 455,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 197,100	$ 223,000	$ 8,000		$ 428,100
IV. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 31,200	$ 35,500			$ 66,700
V. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 926,100	$ 654,100		$52,500	$1,632,700
VI. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 14,200	$ 13,000	$ 900		$ 28,100
VII. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 306,600	$ 185,900			$ 492,500
VIII. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 700,800	$ 394,900	$ 3,700		$1,099,400
GRAND TOTAL	$2,407,900	$1,768,200	$12,600	$52,500	$4,241,200

SECTION 4. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Self-Governing Agencies listed below is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Sections 1, 2 and 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Commission on Hispanic Affairs ..... Four (4)
Board of Dentistry ..... Two and three-fourths (2.75)
Board of Medicine ..... Thirteen and one-half (13.5)
Board of Nursing ..... Nine and one-half (9.5)
Board of Optometry ..... Zero (0)
Board of Pharmacy ..... Eleven and three-fourths (11.75)
Board of Veterinary Medicine ..... Two (2)
Athletic Commission ..... Zero (0)
Board of Accountancy ..... Four (4)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Professional Geologists Board ..... Sixty-two hundredths (.62)

Bureau of Occupational Licenses ..... Twenty (20)
Certified Shorthand Reporters Board ..... Thirty-three hundredths (.33)
Outfitters and Guides Licensing Board ..... Six (6)
Real Estate Commission ..... Thirteen (13)

SECTION 5. It is legislative intent that the State Athletic Commission authorize the Department of Administration to use no less than thirty percent (30%) of Athletic Commission revenues accruing during the period July 1, 2005, through June 30, 2006, for the payment of Athletic Commission interagency bills due and owing.

SECTION 6. It is legislative intent that the State Athletic Commission authorize the Department of Administration to use no less than fifty percent (50%) of any Athletic Commission account balance existing on July 1, 2005, for the payment of Athletic Commission interagency bills due and owing.

Approved April 6, 2005.

CHAPTER 302
(H.B. No. 360)

AN ACT
APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2006 AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Electrical Fund	$3,166,400	$ 641,900	$ 96,000	$ 3,904,300
Building Fund	806,500	226,300	28,400	1,061,200
Plumbing Fund	2,009,800	555,300	142,800	2,707,900
Manufactured Housing Fund	59,800	22,700	1,600	84,100
Public Works Contractors Licensing Fund	289,100	153,400	7,000	449,500
Miscellaneous Revenue/ Industrial Safety Fund	442,200	168,900	29,900	641,000
Miscellaneous Revenue/ Logging Fund	292,800	81,100	55,300	429,200
Miscellaneous Revenue/ Building Bureau NCSBCS Fund	12,400	6,000	200	18,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Miscellaneous Revenue Energy Program Fund	31,800	15,300		47,100
Heating, Ventilation and Air Conditioning Board Fund	692,800	501,900	123,000	1,317,700
Elevator Safety Fund	163,400	76,000		239,400
Federal Grant Fund	72,600	47,800	1,100	121,500
TOTAL	$8,039,600	$2,496,600	$485,300	$11,021,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than one hundred thirty-eight and one-tenth (138.1) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 6, 2005.

CHAPTER 303
(S.B. No. 1062, As Amended, As Amended in the House)

AN ACT

RELATING TO ATTEMPTED STRANGULATION; AMENDING CHAPTER 9, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-923, IDAHO CODE, TO PROHIBIT ATTEMPTED STRANGULATION, TO SET FORTH PUNISHMENT, TO PROVIDE FOR INTENT AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 9, 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 18-923, Idaho Code, and to read as follows:

18-923. ATTEMPTED STRANGULATION. (1) Any person who willfully and unlawfully chokes or attempts to strangle a household member, or a person with whom he or she has or had a dating relationship, is guilty of a felony punishable by incarceration for up to fifteen (15) years in the state prison.

(2) No injuries are required to prove attempted strangulation.

(3) The prosecution is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.

(4) "Household member" assumes the same definition as set forth in section 18-918(1)(a), Idaho Code.

(5) "Dating relationship" assumes the same definition as set forth in section 39-6303(2), Idaho Code.

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

Approved April 6, 2005.

CHAPTER 304
(S.B. No. 1086, As Amended)

AN ACT

RELATING TO RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AMENDING SECTION 56-218, IDAHO CODE, TO FURTHER GOVERN PROCEDURE FOR CLAIMS FOR RECOVERY AGAINST THE ESTATE OF DECEASED RECIPIENTS OF MEDICAL ASSISTANCE TO PROVIDE A PROCEDURE FOR AN EXEMPT PROPERTY ALLOWANCE CLAIM.

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

SECTION 1. That Section 56-218, Idaho Code, be, and the same is hereby amended to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Except where exempted or waived in accordance with federal law medical assistance pursuant to this chapter paid on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance may be recovered from the individual's estate, and the estate of the spouse, if any, for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to the individual may be established against the estate of either spouse, but there shall be no adjustment or recovery thereof until after the death of the spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c. Transfers of real or personal property, on or after the look-back dates defined in 42 U.S.C. 1396p, by recipients of such aid, or their spouses, without adequate consideration are voidable and may be set aside by an action in the district court.

(2) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c, the amount of any medical assistance paid under this chapter on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance is a claim against the estate in any guardianship or conservatorship proceedings and may be paid from the estate.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) For purposes of this section, the term "estate" shall include:

(a) All real and personal property and other assets included within the individual's estate, as defined for purposes of state probate law; and

(b) Any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

(5) Claims made pursuant to this section shall be classified and paid as a debt with preference as defined in section 15-3-805(5), Idaho Code. Any distribution or transfer of the estate prior to satisfying such claim is voidable and may be set aside by an action in the district court. The personal representative of every estate subject to a claim under this section must, within thirty (30) days of the appointment, give notice in writing to the director of his or her appointment to administer the estate. However, if an exempt property allowance claim is made in an estate subject to a claim under this section by one (1) or more persons not described in subsection (2) of this section, then, to the extent such exempt property allowance claim exceeds the fair market value of the actual personal property of the decedent held by the estate subject to a claim under this section (including, but not limited to, such items as household furniture, automobiles, furnishings, appliances, and personal effects), the persons making such exempt property allowance claim must file with the court, and with the personal representative or administrator of the estate, and with the department, a written statement under oath containing the following:

(a) A statement that no personal property of the decedent has been transferred without adequate consideration to any person or entity, including any one (1) or more of the persons making the exempt property allowance claim, to the actual knowledge of any of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement; or

(b) A statement that personal property of the decedent has been transferred without adequate consideration to any person or entity, including one (1) or more of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement, to the actual knowledge of any of the persons making the exempt property allowance claim, and stating the fair market value of the personal property so transferred, and stating a reasonable description of such property, and stating the method of determining the fair market value of the personal property so transferred.

If the written statement indicates that there has been such a transfer of personal property, then the fair market value of the personal property so transferred shall be subtracted from the remaining exempt property allowance claim, after subtraction of the personal property held by the estate, as described above, and only any still remaining portion of the exempt property claim may be paid by the estate to the persons making the exempt property allowance claim. The statement submitted under paragraph (a) or (b) of this subsection, must be signed under oath by all persons making the exempt property claim.

(6) The department may file a notice of lien against the property of any estate subject to a claim under this section. In order to perfect a lien against real or personal property, the department shall, within ninety (90) days after the personal representative or successor makes a written request for prompt action to the director, or ~~two (2)~~ three (3) years from the death of the individual for whom medical assistance was paid under this chapter, whichever is sooner, file a notice of lien in the same general form and manner as provided in section 56-218A(3)(a), Idaho Code, in the office of the secretary of state, pursuant to section 45-1904, Idaho Code. Failure to file a notice of lien does not affect the validity of claims made pursuant to this section.

(7) The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers for the following circumstances:

(a) The only asset of the estate provides the primary source of support for other family members; or

(b) The estate has a value below an amount specified in the rules; or

(c) Recovery under the lien by the department will entitle the heirs of the deceased individual to public assistance.

(8) The cause of action to void a transfer without adequate consideration established in this section shall not be deemed to have accrued until the department discovers, or reasonably could have discovered, the facts constituting the transfer without adequate consideration.

Approved April 6, 2005.

CHAPTER 305
(S.B. No. 1104)

AN ACT

RELATING TO VOLUNTEER FIRE DEPARTMENTS; AMENDING CHAPTER 24, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-2402, IDAHO CODE, TO PROVIDE THAT VOLUNTEER FIRE DEPARTMENTS MAY COLLECT A SERVICE CHARGE BASED ON A PUBLISHED SCHEDULE OF CHARGES PROVIDED CERTAIN SPECIFIED CONDITIONS ARE MET.

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

SECTION 1. That Chapter 24, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-2402, Idaho Code, and to read as follows:

6-2402. VOLUNTEER FIRE DEPARTMENTS -- SCHEDULE OF CHARGES -- CONDITIONS FOR COLLECTION -- REPORTS -- FAILURE TO PAY. (1) As used in this section, "volunteer fire department" means a fire department organized as a nonprofit corporation with a primary purpose of firefighting, fire protection, or other emergency services, which has entered into an agreement with a validly organized city or county to provide fire fighting, fire protection, or other emergency services to a distinct service area.

(2) A volunteer fire department that provides services within a jurisdiction served by the department may establish a schedule of

charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property who receives service if the following conditions are met:

(a) At the following times, the department gives notice in a newspaper of general circulation on three (3) separate occasions in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(i) Before the schedule of service charges is initiated;

(ii) When there is a change in the amount of a service charge.

(b) The property owner has not sent written notice to the department to refuse service by the department to the owner's property.

(c) The bill for payment of the service charge:

(i) Is submitted to the property owner in writing within thirty (30) days after services are provided; and

(ii) Includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(3) A volunteer fire department shall use the revenue collected from the fire service charges under this section for:

(a) The purchase of equipment, buildings and property for firefighting, fire protection or other emergency services;

(b) The ordinary and necessary expenses associated with firefighting, fire protection and other emergency services; and

(c) To pay principal and interest on a loan acquired for the purchase of equipment, buildings and property for firefighting, fire protection and other emergency services.

(4) A volunteer fire department that:

(a) Has contracted with a political subdivision to provide fire protection or emergency services, and

(b) Charges for services under the provisions of this section, shall submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(5) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(6) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge authorized under the provisions of this section.

Approved April 6, 2005.

CHAPTER 306
(S.B. No. 1163, As Amended)

AN ACT

RELATING TO PODIATRY; AMENDING SECTION 54-602, IDAHO CODE, TO REVISE THE DEFINITION FOR SURGICAL TREATMENT, TO REQUIRE ADVANCED SURGICAL PROCEDURES TO BE PERFORMED IN CERTAIN HOSPITALS OR SURGICAL CENTERS, TO PROVIDE A CODE REFERENCE, TO REVISE THE DEFINITION FOR PODIATRIST AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 54-602, Idaho Code, be, and the same is hereby amended to read as follows:

54-602. PODIATRY DEFINED. (1) Podiatry shall, for the purpose of this ~~act~~ chapter, mean the diagnosis and mechanical, electrical, medical, physical and surgical treatment of ailments of the human foot and leg, and the casting of feet for the purpose of preparing or prescribing corrective appliances, prosthetics, and/or the making of custom shoes for corrective treatment; provided, however, that the casting of feet for preparing corrective appliances, prosthetics and/or custom shoes may be permitted on the prescription of a duly licensed person in the healing arts in this state. Podiatrists shall be limited in their practice to the human foot and leg. Surgical treatment, as herein used, shall ~~be held to~~ mean the surgical treatment of the foot and ankle and those soft tissue structures below the knee governing the function of the foot and ankle, but shall not include the amputation of ~~foot or~~ the leg, surgery of the ~~leg, or use of any anesthetic other than local anesthetics, except that a~~ knee joint, surgery of the bony structures proximal to the distal half of the tibia, or the administration or monitoring of general anesthesia.

(2) Advanced surgical procedures, as determined by the state board of podiatry, shall be performed in a licensed hospital or certified ambulatory surgical center accredited by the joint commission on accreditation of healthcare organizations or the accreditation association for ambulatory health care where a peer review system is in place.

(3) A podiatrist may administer narcotics and medications in the treatment of ailments of the human foot and leg in the same manner as a physician and surgeon licensed to practice under chapter 18, title 54, Idaho Code.

(4) It is not the intent of this ~~law~~ section, and nothing herein shall be so construed, to prohibit the sale of noncustom built shoes that are commonly sold by merchants in commercial establishments.

(5) A podiatrist is defined as a natural person who practices podiatry and who within the scope of this ~~act~~ chapter is a physician and surgeon of the foot and ankle, and shall be referred to as a podiatric physician and surgeon; provided, further, that nothing within this chapter shall prohibit any physician or surgeon, registered and licensed as such and authorized to practice under the laws of the state of Idaho, or any physician or surgeon of the United States army, navy or public health service when in actual performance of his duties, from practicing medicine and surgery.

Approved April 6, 2005.

CHAPTER 307

(S.B. No. 1164, As Amended, As Amended in the House)

AN ACT

RELATING TO CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2406, IDAHO CODE, TO REFERENCE INVOLUNTARY TREATMENT ORDERS OF THE COURT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-2409, IDAHO

CODE, TO REVISE PROVISIONS APPLICABLE TO CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS; AMENDING SECTION 16-2415, IDAHO CODE, TO PROVIDE THAT CERTAIN DECISIONS REGARDING PLACEMENT AND SERVICES SHALL BE CONSISTENT WITH THE PLAN OF TREATMENT APPROVED BY THE COURT; AMENDING SECTION 16-2416, IDAHO CODE, TO PROVIDE THAT AT LEAST ONE DESIGNATED EXAMINER SHALL BE A PSYCHIATRIST, LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST; AMENDING SECTION 16-2418, IDAHO CODE, TO REVISE THE CRITERIA APPLICABLE FOR INVOLUNTARY TREATMENT ORDERS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 16-2419, IDAHO CODE, TO PROVIDE THAT CERTAIN AUTHORITY AND DECISIONS OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL BE CONSISTENT WITH THE PLAN OF TREATMENT APPROVED BY THE COURT; AMENDING SECTION 16-2423, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATION OF NECESSARY MEDICATIONS OR OTHER TREATMENTS UNDER CERTAIN CONDITIONS DURING A PERIOD OF INVOLUNTARY TREATMENT.

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

SECTION 1. That Section 16-2406, Idaho Code, be, and the same is hereby amended to read as follows:

16-2406. ACCESS TO SERVICES. Access to services for children with serious emotional disturbance and their families shall be voluntary whenever informed consent can be obtained. Involuntary treatment or commitment to the department's custody shall not be required as a condition for obtaining, providing, or paying for treatment by the department. The department's assistance with paying for a child's treatment and other services under this ~~act~~ chapter shall be based upon the rules adopted by the department and by the sliding fee scale developed under section 16-2433, Idaho Code. Department payments to service providers are only made pursuant to a written agreement between the department and the service provider. The agreement must reflect cost-effective services for the child.

(1) The family and the department may enter into a services agreement if:

(a) The child meets the department's eligibility criteria for treatment or services; and

(b) The child and his parents request mental health services from the department; or

(c) The family requests full or partial payment for services by the department (other than payment through medical assistance, title XIX of the social security act, as amended); or

(d) The youth is involuntarily placed by the department under this chapter.

(2) For purposes of this chapter, a services agreement is a written agreement, binding on the parties, which specifies at a minimum:

(a) The legal status of the child; and

(b) The rights and obligations of the parents or guardians, the child and the department while the child is in the out-of-home placement.

(3) When a child is placed out of his home pursuant to a services agreement or a one hundred twenty (120) day involuntary treatment order by the court, the department shall have the responsibility for the child's placement and care. The financial obligation of the family will

be determined after consideration of all available payment and funding sources including title XIX of the social security act, as amended, all available third party sources, and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned on transfer of custody or parental rights.

SECTION 2. That Section 16-2409, Idaho Code, be, and the same is hereby amended to read as follows:

16-2409. CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS. ~~A~~ Upon approval by the court, a child who is subject to involuntary ~~hospitalization~~ treatment under this chapter may at any time convert to a voluntary status if informed consent to treatment can be obtained from his parent or guardian. The court shall approve conversion from involuntary to voluntary status if the court finds that:

(1) (a) The child is not likely to cause harm to himself or suffer substantial mental or physical deterioration; and

(b) The child is not likely to cause harm to others; or

(2) The conversion from involuntary to voluntary status is in the best interests of the child and consistent with the requirements of public safety.

SECTION 3. That Section 16-2415, Idaho Code, be, and the same is hereby amended to read as follows:

16-2415. DISPOSITIONAL AUTHORITY. (1) Whenever the involuntary treatment of the child requires payment from public funds, other than medicaid funds, the department, or other funding agency shall have the authority to determine the placement for the child and to make decisions concerning the purchase and provision of mental health services, consistent with the plan of treatment approved by the court.

(2) When the cost of the child's treatment can be paid from private sources or by medicaid, the parent shall have the authority to determine the child's placement and services, consistent with the plan of treatment approved by the court.

(3) All expenditures under the medicaid program shall be governed by the laws and rules applicable to that program.

(4) The department shall issue a disposition order within two (2) days of the order for involuntary treatment.

SECTION 4. That Section 16-2416, Idaho Code, be, and the same is hereby amended to read as follows:

16-2416. ONE HUNDRED TWENTY DAY INVOLUNTARY TREATMENT ORDER. (1) Children may be treated involuntarily for a period of up to one hundred twenty (120) days upon a petition filed by the treatment facility or by the parent, guardian, prosecuting attorney or other interested party. The petition shall set forth the facts supporting the allegations and, in the case of petitions filed by a treatment facility, shall describe why the child requires treatment, a detailed description of the symptoms or behaviors of the child that support the allegations in the petition, a list of the names and addresses of any witnesses the petitioner intends to call at the involuntary treatment hearing. The petition shall also contain a statement of the alternatives to court-ordered involun-

tary treatment that have been considered and the reasons for rejecting the alternatives. The petition shall be filed with the court and copies shall be served upon the person and upon a parent, the next of kin, guardian or custodian and the person's attorney. The copies of the petition shall be accompanied by a notice advising of the child's rights concerning the proceeding.

(2) Upon filing of a petition for involuntary treatment of a child who is not currently under emergency evaluation or voluntary admission, the court shall issue a summons to the child to submit to an examination by two (2) designated examiners. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist. Each designated examiner shall promptly prepare a report on his examination and file it with the court. Copies shall be promptly served upon the child, parent, custodian, guardian and the child's attorney.

SECTION 5. That Section 16-2418, Idaho Code, be, and the same is hereby amended to read as follows:

16-2418. CRITERIA FOR ONE HUNDRED TWENTY DAY INVOLUNTARY TREATMENT ORDER. (1) A child may be treated involuntarily, and placed at a facility, according to the disposition of the department under section 16-2415, Idaho Code, for a period of up to one hundred twenty (120) days if, after the hearing provided in section 16-2417, Idaho Code, the court determines on the basis of clear and convincing evidence that:

(~~1~~a) The child is suffering from severe emotional disturbance; and

(~~2~~b) There is reasonable prospect that his illness is treatable by a facility or program operated by the department or other facility available to the department for treatment of children with serious emotional disturbance; and

(~~3~~c) A child's parent or guardian refuses or is unable to consent adequately provide for the treatment of the child consistent with the requirements of public safety; and

(~~4~~d) As the result of serious emotional disturbance, the child is:

(~~a~~i) ~~1~~Likely to cause harm to himself or suffer substantial mental or physical deterioration~~,~~; or

(~~b~~ii) ~~1~~Likely to cause harm to others.~~;~~ ~~and~~

(~~5~~2) ~~There--is~~ Within seven (7) days after entry of the order for involuntary commitment, the department of health and welfare shall develop ~~an individualized~~ plan of treatment to be approved by the court which includes:

(a) ~~a~~A proposed placement and projections for aftercare upon completion of treatment~~,~~;

(b) ~~s~~Specific behavioral goals by which the success of the treatment can be measured~~,~~; and

(c) ~~e~~Evidence of attempts to involve the patient and the patient's family in the development of the plan. ~~has been presented to the court by the department or the petitioner; and~~

(~~6~~3) The plan ~~for involuntary~~ of treatment ~~is~~ shall be consistent with the least restrictive alternative principle.

(4) The court may conduct a review hearing at any time to monitor compliance and to make any significant adjustment from the plan of treatment during the period of involuntary commitment.

SECTION 6. That Section 16-2419, Idaho Code, be, and the same is hereby amended to read as follows:

16-2419. EFFECT OF INVOLUNTARY TREATMENT ORDERS ON PARENTAL RIGHTS AND CUSTODY. If an order for involuntary treatment is issued, the parents, guardian or custodian of the child will retain all parental rights, including legal custody of the child, or the orders for involuntary treatment and disposition. The department of health and welfare shall acquire physical custody of the child and the right to determine the disposition and placement of the child whenever the placement requires the expenditure of public funds as provided in section 16-2415, Idaho Code, consistent with the plan of treatment approved by the court.

SECTION 7. That Section 16-2423, Idaho Code, be, and the same is hereby amended to read as follows:

16-2423. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- PERSONS SUBJECT TO INVOLUNTARY OR EMERGENCY TREATMENT. (1) During an emergency evaluation under section 16-2413, Idaho Code, or during a period of involuntary treatment ordered under section 16-2418, Idaho Code, the treatment facility may administer necessary medications or other treatments, except for electroconvulsive treatments, to a child, consistent with good medical practice without the informed consent of the parent of the child, if it is not possible to obtain such consent.

(2) Notwithstanding subsection (1) of this section, a treatment facility shall not administer experimental treatment or any other special therapy except as provided by law or in rules promulgated by the department.

(3) No psychosurgery or electroconvulsive treatment shall be performed on a child, except by order of a court upon a finding that the treatment is necessary to prevent serious harm to the child. Consent of the parent of a child to this treatment without a court order shall be invalid and shall not be a defense against any legal action that might be brought against the provider of the treatment.

(4) Consent for other medical/surgical treatments not intended primarily to treat a child's serious emotional disturbance shall be obtained in accordance with the applicable law.

Approved April 6, 2005.

CHAPTER 308
(S.B. No. 1179, As Amended in the House)

AN ACT

RELATING TO MOTORCYCLES; AMENDING SECTION 33-4904, IDAHO CODE, TO PROVIDE THAT REVENUES FROM THE MOTORCYCLE PROGRAM FEE SHALL BE CREDITED TO THE MOTORCYCLE SAFETY PROGRAM FUND; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-453, IDAHO CODE, TO PROVIDE A MOTORCYCLE SAFETY PROGRAM FEE TO BE COLLECTED IN ADDITION TO EACH MOTORCYCLE REGISTRATION FEE.

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

SECTION 1. That Section 33-4904, Idaho Code, be, and the same is hereby amended to read as follows:

33-4904. MOTORCYCLE SAFETY PROGRAM FUND. (1) The motorcycle safety program fund is established in the state treasury and appropriated on a continual basis to the department of education which shall administer the moneys. Money in the fund shall only be used for administration and implementation of the program, including reimbursement of entities which offer approved motorcycle rider training courses.

(2) At the end of each fiscal year, moneys remaining in the motorcycle safety program fund shall be retained in said fund and shall not revert to any other general fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to and remain in the motorcycle safety program fund.

(3) Revenue credited to the fund shall include one dollar ($1.00) of each fee for a class A, B, C or D driver's license as provided in section 49-306, Idaho Code.

(4) Revenue credited to the fund shall include amounts collected for each motorcycle safety program fee imposed pursuant to section 49-453, Idaho Code.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-453, Idaho Code, and to read as follows:

49-453. MOTORCYCLE SAFETY PROGRAM FEE. A motorcycle safety program fee of six dollars ($6.00) shall be collected in addition to each motorcycle registration fee assessed pursuant to section 49-402, Idaho Code. Such fees shall be deposited to the motorcycle safety program fund established in section 33-4904, Idaho Code.

Approved April 6, 2005.

CHAPTER 309
(S.B. No. 1180)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-420A, IDAHO CODE, TO EXTEND THE FINAL DATE TO APPLY FOR SPECIAL IDAHO CAPITOL COMMISSION PLATES IN LIEU OF REGULAR LICENSE PLATES TO DECEMBER 31, 2012, AND TO EXTEND THE DATE AFTER WHICH THE DEPARTMENT SHALL NOT ISSUE NEW CAPITOL COMMISSION PLATES TO JANUARY 1, 2013.

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

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

49-420A. IDAHO STATE CAPITOL COMMISSION PLATES. (1) On and after January 1, 2002, and through December 31, ~~2006~~ 2012, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon

department approval, receive special Idaho state capitol commission plates in lieu of regular license plates. On and after January 1, ~~2007~~ 2013, the department shall not issue new plates pursuant to this section nor shall it renew any plates previously issued under this section, the provisions of section 49-443, Idaho Code, relating to time period for validity of plates, notwithstanding.

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

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho capitol endowment income fund established in section 67-1611, Idaho Code, and shall be used exclusively for the purposes of chapter 16, title 67, Idaho Code.

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

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

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

Approved April 6, 2005.

CHAPTER 310
(S.B. No. 1189)

AN ACT

RELATING TO ACCIDENTS INVOLVING DAMAGE TO VEHICLES; AMENDING SECTION 49-662, IDAHO CODE, TO PROVIDE THAT A PEACE OFFICER IS AUTHORIZED TO REQUIRE REMOVAL FROM THE MAIN-TRAVELED PART OF A HIGHWAY CARGO AND

DEBRIS CAUSED BY A MOTOR VEHICLE ACCIDENT, TO AUTHORIZE THE ASSISTANCE OF TRANSPORTATION DEPARTMENT EMPLOYEES IN REMOVAL OF CARGO AND DEBRIS, TO PROVIDE THAT PERSONS LAWFULLY INVOLVED IN THE REMOVAL SHALL NOT BE LIABLE FOR DAMAGE CAUSED BY REASONABLE EFFORTS OF REMOVAL, TO PROVIDE THAT THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW INTERFERENCE WITH DUTIES OF LAW ENFORCEMENT OFFICERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-1301, IDAHO CODE, TO REQUIRE DRIVERS OF VEHICLES INVOLVED IN ACCIDENTS WHICH RESULT ONLY IN DAMAGE TO THE VEHICLE AND WHICH OCCUR ON DIVIDED, ACCESS-CONTROLLED HIGHWAYS OR INTERSTATE HIGHWAYS TO MAKE THE REQUIRED STOP BY MOVING THE VEHICLE TO THE SHOULDER, EMERGENCY LANE OR MEDIAN IF SUCH A MOVE CAN BE MADE IN ACCORDANCE WITH SPECIFIED CONDITIONS, TO PROVIDE THAT DRIVERS OR OTHER PERSONS REMOVING A VEHICLE IN FULFILLMENT OF THE REQUIREMENTS OF LAW SHALL NOT BE LIABLE OR CONSIDERED AT FAULT REGARDING THE CAUSE OF THE ACCIDENT SOLELY BY REASON OF MOVING THE VEHICLE AND TO PROVIDE THAT THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW INTERFERENCE WITH DUTIES OF LAW ENFORCEMENT OFFICERS.

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

SECTION 1. That Section 49-662, Idaho Code, be, and the same is hereby amended to read as follows:

49-662. OFFICERS AUTHORIZED TO REMOVE VEHICLES. (1) Whenever any peace officer finds a vehicle in violation of any of the provisions of section 49-659, Idaho Code, the officer is authorized to move the vehicle, or require the driver or other person in charge of the vehicle to move it to a position off the roadway.

(2) Any peace officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway in a position or under circumstances as to obstruct the normal movement of traffic.

(3) Any peace officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(a) A report has been made that the vehicle has been stolen or taken without the consent of its owner~~,~~; or

(b) The person or persons in charge of the vehicle are unable to provide for its custody or removal~~,~~; or

(c) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

(4) Whenever any peace officer finds a vehicle inoperable as a result of an accident and standing upon a highway, the officer is authorized to require the driver or other person in charge of the vehicle to have the vehicle removed from the scene of the accident to a position off the paved or main-traveled part of the highway. In the event that the owner of the vehicle is left incapacitated resulting from injuries suffered from the accident, the officer is authorized to have the inoperative vehicle moved from the scene to the nearest garage or other place of safety.

(5) A peace officer is authorized to require the removal from the

main-traveled part of the highway cargo or debris caused by a motor vehicle accident, provided that:

(a) The accident occurs with no apparent serious personal injury or death; and

(b) The removal can be accomplished safely and the removal will result in the improved safety or convenience of travel on the highway.

(6) A transportation department employee in the exercise of the management, control and maintenance of a highway of the state highway system may assist in the removal from the main-traveled part of the highway cargo or debris caused by a motor vehicle accident when directed by a peace officer.

(7) Neither the peace officer nor transportation department employee, nor anyone acting under the direction of the officer is liable for damage to the motor vehicle, cargo or debris caused by reasonable efforts of removal.

(8) Nothing herein shall be construed to interfere with the duty of any city, county or state police officer to investigate and detect crime and enforce the penal, traffic or highway laws of this state or any political subdivision.

SECTION 2. That Section 49-1301, Idaho Code, be, and the same is hereby amended to read as follows:

49-1301. ACCIDENTS INVOLVING DAMAGE TO VEHICLE. (1) The driver of any vehicle involved in an accident, either on public or private property open to the public, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident, or as close as possible, and shall immediately return to, and in every event shall remain at, the scene of the accident until he has fulfilled the requirements of law.

(2) For any accident which occurs on a divided, controlled-access highway or interstate highway of the state highway system, a stop as required by subsection (1) of this section shall be made by moving the vehicle into a safe refuge on the shoulder, emergency lane or median whenever such moving of a vehicle may be done safely and the vehicle is capable of being normally and safely driven, does not require towing, and may be operated under its own power in its customary manner without further damage or hazard to itself, to the traffic elements or to the roadway.

(a) For any other highway, a~~A~~ stop as required by subsection (1) of this section shall be made without obstructing traffic more than is necessary.

(b) The driver or any other person who has removed a motor vehicle from the main-traveled part of the road as provided in this subsection before the arrival of a law enforcement officer shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle pursuant to this subsection.

(3) Any person failing to stop or to comply with the requirements under these circumstances shall be guilty of a misdemeanor.

(~~3~~4) The department shall revoke for a period of one (1) year the driver's license, privileges or permit to drive, or the nonresident operating privilege, of any person convicted of a violation of the provisions of subsection (1) of this section.

(5) Nothing herein shall be construed to interfere with the duty of any city, county or state police officer to investigate and detect crime and enforce the penal, traffic or highway laws of this state or any political subdivision.

Approved April 6, 2005.

CHAPTER 311
(S.B. No. 1192)

AN ACT

RELATING TO THE IDAHO ENERGY RESOURCES AUTHORITY ACT; AMENDING SECTION 67-8902, IDAHO CODE, AS ADDED BY SECTION 1, HOUSE BILL NO. 106, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE FURTHER DECLARATION OF NECESSITY AND PURPOSE; AMENDING SECTION 67-8903, IDAHO CODE, AS ADDED BY SECTION 1, HOUSE BILL NO. 106, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-8908, IDAHO CODE, AS ADDED BY SECTION 1, HOUSE BILL NO. 106, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE ADDITIONAL POWERS TO IDAHO ENERGY RESOURCES AUTHORITY; AMENDING CHAPTER 89, TITLE 67, IDAHO CODE, AS ADDED BY SECTION 1, HOUSE BILL NO. 106, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, BY THE ADDITION OF A NEW SECTION 67-8925, IDAHO CODE, TO AUTHORIZE THE IDAHO ENERGY RESOURCES AUTHORITY TO UNDERTAKE ANY RENEWABLE ENERGY PROJECT FOR THE BENEFIT OF ONE OR MORE INDEPENDENT POWER PRODUCERS AND ISSUE ITS BONDS TO FINANCE THE COST THEREOF AND TO PROVIDE APPLICATION TO AN INDEPENDENT POWER PRODUCER.

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

SECTION 1. That Section 67-8902, Idaho Code, as added by Section 1, House Bill No. 106, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

67-8902. DECLARATION OF NECESSITY AND PURPOSE. (1) It is hereby determined and declared that:

(a) Industrial, irrigation, commercial and residential consumers in the state of Idaho receive electric service from various investor-owned, cooperative and municipal utilities and the ability of these utilities to provide reliable and economic electric services at stable prices is essential to the economy and the economic development of the state of Idaho and to the health, safety and welfare of its people;

(b) The regional interconnection of electric utilities causes events and conditions in other western states to have a significant impact of the operations of utilities in the state of Idaho and the restructuring of the electric industry in recent years by the federal government and in other states has exposed all utilities in Idaho, and the consumers served by them, to volatile market prices,

reliability concerns and other adverse conditions;

(c) It is in the best interest of the state of Idaho and its people that sufficient and reliable electric generation and transmission resources are developed and made available at cost-based rates in order to enable these utilities to meet existing and future demands for electric services, to provide adequate reserves and to promote reliability at the most stable rates practicable;

(d) The electric utility and energy industries are and will continue to be capital-intensive industries and the availability of cost-effective financing to investor-owned, cooperative and municipal utilities will enhance the ability of these utilities to provide and promote economic electric services to consumers in the state;

(e) Coordination, cooperation and joint ventures between and among such utilities with one another and with the private, cooperative, federal, state and municipal utilities and agencies that provide wholesale and retail electric services in the western states will promote regional electric reliability and stability and will provide economies of scale; and

(f) It is the intent of the legislature to create the Idaho energy resources authority to promote the development and financing of facilities for the benefit of participating utilities and to accomplish the purposes stated above, and to authorize the authority to exercise all such powers as are necessary to enable it to achieve such purposes and to thereby promote and protect the economy of the state of Idaho and the health, safety and welfare of its people; and

(g) It is in the best interest of the state of Idaho and its people to encourage and promote the development of renewable energy resources in order to develop sustainable sources of energy supply, reduce inefficiencies in the use of electric energy and enhance the long-term stability of the energy resources and requirements of the state.

(2) Nothing contained herein is intended or shall be construed to limit or restrict the authority of the Idaho public utilities commission with respect to the regulation of electric corporations and public utilities pursuant to title 61, Idaho Code.

SECTION 2. That Section 67-8903, Idaho Code, as added by Section 1, House Bill No. 106, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

67-8903. DEFINITIONS. When used in this chapter, the following terms shall have the following meanings:

(1) "Authority" means the Idaho energy resources authority created pursuant to section 67-8904, Idaho Code.

(2) "Board" means the board of directors of the authority.

(3) "Bonds" means any bonds, notes, certificates or other obligations or evidences of indebtedness issued by the authority.

(4) "Commission" means the Idaho public utilities commission created pursuant to section 61-201, Idaho Code.

(5) "Electric cooperative" means a cooperative corporation or association which is:

(a) Organized under the provisions of section 501(c)(12) or 1381 of the Internal Revenue Code;

(b) Is an Idaho nonprofit corporation pursuant to chapter 3, title 30, Idaho Code; and

(c) Is an operating entity or successor entity thereof which owns facilities and provides electric service to customers in Idaho as of the effective date of this chapter.

(6) "Facility" means any facility necessary, used or useful in connection with the generation or transmission of electric power and energy and any renewable energy generation project, in each case including, but not limited to, all real and personal property, fuel supplies and transportation facilities, pollution control facilities and all equipment and improvements necessary or desirable in connection with a facility. "Facility" shall include facilities owned in whole or in part by the authority or a participating utility, including undivided ownership interests in facilities, leasehold interests in facilities and other estates, but excludes a generating facility that sells any portion of its output as a qualifying facility to a participating utility under provisions of the public utility regulatory policies act of 1978, 16 U.S.C. section 2601 et ~~sec~~ seq.

(7) "Independent power producer" means any public or private corporation which is not itself a participating utility, but which may be an affiliate of a participating utility, that develops any renewable energy generation project undertaken by the authority pursuant to this chapter.

(8) "Participating utility" means, with respect to any facilities undertaken by the authority pursuant to this chapter, any public or private corporation, electric cooperative or other cooperative corporation or association, municipal corporation, political subdivision of this state or another state, state or federal agency, joint operating entity or other entity that:

(a) Owns and operates an electric utility system that provides electric services to consumers of electricity located in an existing service area within the boundaries of this state;

(b) Provides electric generation, power supply, transmission and/or ancillary and related services at wholesale to one (1) or more participating utilities described in paragraph (a) of this subsection; or

(c) Is organized or operates as a regional transmission organization covering all or any part of the state of Idaho and one (1) or more other states.

(~~8~~9) "Renewable energy" means a source of energy that occurs naturally, is regenerated naturally or uses as a fuel source, a waste product or byproduct from a manufacturing process including, but not limited to, open or closed-loop biomass, fuel cells, geothermal energy, waste heat, cogeneration, solar energy, waterpower and wind.

(10) "Renewable energy generation project" means an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity.

(11) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from a participating utility.

SECTION 3. That Section 67-8908, Idaho Code, as added by Section 1, House Bill No. 106, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

67-8908. POWERS. (1) The authority shall have the following powers, which are hereby declared to be necessary to enable the authority to carry out and effectuate the purposes and provisions of this chapter, together with all powers incidental thereto or necessary for the performance thereof:

(a) To have perpetual succession as a body politic and corporate;

(b) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(c) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(d) To have and to use a corporate seal and to alter the same at pleasure;

(e) To maintain an office at such place or places as it may designate;

(f) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(g) To acquire, whether by purchase, gift, grant, bequest, devise, exchange, eminent domain or otherwise, own, hold, improve, lease, transfer, assign, pledge and dispose of, any real or personal property or any interest therein necessary or convenient in connection with any facility or its purposes under this chapter; provided however, that the power of eminent domain is limited to only those purposes and participating utilities as authorized by section 7-701, Idaho Code;

(h) To acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, manage, operate, lease as lessee or lessor, and regulate any facility; to enter into contracts for any and all of such purposes and for the acquisition and management of fuel supplies, provided such is reasonably necessary for the operation and maintenance of any facility; to enter into contracts and agreements to manage risks associated with the purchase and sale of energy and energy commodities, provided such is reasonably necessary for the operation and maintenance of any facility; and shall designate one (1) or more qualified participating utilities as agent or agents of the authority, as agreed to among the participating utilities, with respect to the foregoing;

(i) To sell, lease or otherwise provide by contract to one (1) or more participating utilities the services, output or product provided by any or all of the facilities undertaken by the authority upon such terms and conditions as the authority and the participating utilities shall deem proper, and to establish, charge, collect and revise from time to time such rents, fees and charges for such services, output or product as provided for in this chapter;

(j) To borrow money and to issue bonds for any of the purposes described in this chapter, to issue refunding bonds and to enter into contracts and agreements determined by the authority to be necessary or desirable to manage its debt service and interest costs;

(k) To establish rules and regulations for the use of facilities and to designate a participating utility as its agent, to establish rules and regulations for the use of the facilities undertaken or operated by such participating utility;

(l) To employ or contract for consulting engineers, architects,

attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(m) To enter into contracts, agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or any state or any agency or governmental subdivision thereof, in furtherance of the purposes of this chapter including, but not limited to, the development, maintenance, operation, and financing of any facility and to do any and all things necessary in order to avail itself of such aid and cooperation;

(n) To receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied to carry out the purposes of this chapter subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or any state for any purpose consistent with this chapter;

(o) To assign and pledge all or any part of its revenues and income and to mortgage or otherwise encumber any or all of its facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit and security of the holders of bonds issued to finance such facilities or any portion thereof;

(p) To make loans to any participating utility to finance the cost of any facilities in accordance with an agreement between the authority and such participating utility;

(q) To make secured or unsecured loans to a participating utility to refinance obligations and indebtedness incurred for facilities undertaken and completed prior to or after the enactment of this chapter when the authority finds that such financing is in the public interest and either alleviates the financial hardship upon the participating utility or is in connection with other financing by the authority for such participating utility or may be expected to result in a cost-effective delivery of electricity to the consumers served by the participating utility, or any combination thereof;

(r) To charge to and equitably apportion its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter among the participating utilities that have entered into contracts with the authority;

(s) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable and to self-insure against such risks as it shall deem to be reasonable;

(t) To invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in:

(i) Bonds, notes and other obligations of the United States or any agency or instrumentality thereof and other securities secured by such bonds, notes or other obligations;

(ii) Money market funds which are insured or the assets of which are limited to obligations of the United States or any agency or instrumentality thereof;

(iii) Time certificates of deposit and savings accounts;

(iv) Commercial paper which, at the time of its purchase, is rated in the highest category by a nationally recognized rating service;

(v) Property or securities in which the state treasurer may invest funds in the state treasury pursuant to section 67-1210, Idaho Code; and

(vi) With respect to any funds representing bond proceeds or amounts pledged to the payment of bonds, such other investments as may be specified in a bond resolution or trust indenture securing bonds of the authority;

(u) To participate in cooperative ventures with any agencies or organizations in order to provide affordable and reliable energy to the residents of the state; and

(v) To undertake and finance renewable energy generation projects developed by an independent power producer; and

(w) To do all things necessary and convenient to carry out the purposes of this chapter.

(2) Notwithstanding any other provision of this chapter, the authority shall have no power to:

(a) Acquire the operating property of any investor-owned, private, cooperative, municipal or other utility by the exercise of the power of eminent domain;

(b) Provide financing for the acquisition of the operating property of any such utility by or under threat of eminent domain, in either case unless such utility consents in writing to the acquisition; or

(c) Deliver retail electricity or related retail products or services to any ultimate consumer, whether in violation of the Idaho electric supplier stabilization act or otherwise.

SECTION 4. That Chapter 89, Title 67, Idaho Code, as added by Section 1, House Bill No. 106, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-8925, Idaho Code, and to read as follows:

67-8925. RENEWABLE ENERGY GENERATION PROJECTS. The authority may undertake any renewable energy generation project for the benefit of one (1) or more independent power producers and may issue its bonds to finance the cost thereof, all to the same extent and subject to the same provisions applicable to the undertaking and financing of other facilities for the benefit of one (1) or more participating utilities. In furtherance of the foregoing, an independent power producer shall be deemed to be a participating utility with respect to a renewable energy generation project for purposes of sections 67-8909, 67-8910 and 67-8911, Idaho Code.

Approved April 6, 2005.

CHAPTER 312
(S.B. No. 1196)

AN ACT

RELATING TO POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO A CRIMINAL HISTORY AND BACKGROUND CHECKS PILOT PROJECT; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW

SECTION 56-1004A, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO CONDUCT A PILOT PROJECT OF CRIMINAL HISTORY AND BACKGROUND CHECKS ON INDIVIDUALS WHO HAVE ACCESS TO VULNERABLE ADULTS OR CHILDREN IN LONG-TERM CARE SETTINGS, TO SPECIFY PROCEDURES, TO SPECIFY REQUIREMENTS FOR DISCLOSURE BY THE APPLICANT, TO PROVIDE REVIEW, TO GOVERN DISCLOSURE AND IMMUNITY AND TO LIMIT PURPOSES OF THE CHECK; AND PROVIDING SUNSET OF THIS ACT AT THE TIME OR UNDER THE CONDITIONS SPECIFIED.

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

SECTION 1. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1004A, Idaho Code, and to read as follows:

56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS PILOT PROJECT. (1) To assist in the protection of children and vulnerable adults, and for the purpose of participating in a pilot project, the legislature hereby authorizes the department of health and welfare to conduct criminal history and background checks of providers, employees and contractors who have access to patients in long-term care settings. Long-term care facilities or providers include nursing facilities, institutional care facilities for the mentally retarded, residential or assisted living facilities, long-term care hospitals or hospitals with swing beds, and home health and hospice providers. The criminal history and background checks for long-term care providers, employees and contractors will be funded through the federal grant at no cost to the long-term care providers, employees, or contractors.

(2) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:

(a) Statewide criminal identification bureau;
(b) Federal bureau of investigation (FBI);
(c) National crime information center;
(d) Statewide sex offender registry;
(e) Idaho transportation department driving records;
(f) Adult and child protection registries; and
(g) Nurse aide registry.

(3) Each individual who has patient access is required to complete the criminal history and background check process. The department of health and welfare shall promulgate rules to further define those individuals and the effective date. Each applicant must sign forms provided by the department authorizing the department to obtain and release information in accordance with state and federal law. The applicant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once this disclosure is made, the department shall make a preliminary determination as to whether the individual may have access to individuals in a long-term care setting on a provisional basis pending the final determination. Long-term care facilities or providers may not allow an individual to provide care or have patient access until the applicant is given a provisional status.

(4) The department shall review the information received from the criminal history and background check and determine whether the appli-

cant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to existing rules. The process for the check and the issuance of a clearance or denial is also set forth in existing department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.

(5) Applicants who knowingly fail to disclose information on the forms provided or who falsify information may be subject to criminal penalties under chapter 32, title 18, Idaho Code.

(6) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in making an employment decision, is immune from liability for that decision when it is based on such results.

(7) Clearance through the criminal history and background check process is not a determination of suitability for employment.

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after September 30, 2007, or when federal funding is no longer available for the costs, whichever occurs first.

Approved April 6, 2005.

CHAPTER 313
(S.B. No. 1210)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AUTHORIZING FUND DEPOSITS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DECLINING ENROLLMENTS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. CAMPUS OPERATIONS:			
FROM:			
General Fund	$5,201,100	$ 864,800	$6,065,900
Federal Grant Fund	36,000	81,100	117,100
Miscellaneous Revenue Fund	4,000	90,600	94,600
TOTAL	$5,241,100	$1,036,500	$6,277,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. OUTREACH SERVICES:			
FROM:			
General Fund	$1,471,900	$ 126,100	$1,598,000
GRAND TOTAL	$6,713,000	$1,162,600	$7,875,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho School for the Deaf and the Blind is authorized no more than one hundred twenty-one and fifty-two hundredths (121.52) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Idaho School for the Deaf and the Blind may deposit any funds appropriated by Section 1, Chapter 288, Laws of 2004, in a contingency reserve fund created pursuant to Section 33-3409, Idaho Code.

SECTION 4. In recognition of declining enrollments, it is legislative intent that the State Board of Education examine enrollment trends and staffing levels at the Idaho School for the Deaf and the Blind campus in Gooding, and that any savings generated through a restructuring of staff services be redirected to addressing needs in the areas of salary equity and outreach services.

Approved April 6, 2005.

CHAPTER 314
(S.B. No. 1211)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS TO THE ENVIRONMENTAL REMEDIATION FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO USE OF THE WATER POLLUTION CONTROL FUND; AND EXPRESSING LEGISLATIVE INTENT THAT ANY UNEXPENDED AND UNENCUMBERED BALANCES IN THE BIG PAYETTE LAKE WATER QUALITY COUNCIL ADMINISTRATIVE ACCOUNT BE TRANSFERRED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FUND.

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 for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,541,800	$ 945,800			$ 2,487,600
Air Quality Permitting Fund	180,500	211,400			391,900
Public Water System Supervision Fund	297,200	43,100	$ 2,000		342,300
Department of Environmental Quality Fund (Receipts)	112,400	16,600	2,000		131,000
Department of Environmental Quality Fund (Federal)	1,947,600	1,005,100	16,000		2,968,700
TOTAL	$ 4,079,500	$ 2,222,000	$ 20,000		$ 6,321,500
II. AIR QUALITY:					
FROM:					
General Fund	$ 1,789,600	$ 308,700			$ 2,098,300
Air Quality Permitting Fund	1,110,000	332,500	$ 12,000		1,454,500
Department of Environmental Quality Fund (Receipts)	77,600	168,500			246,100
Department of Environmental Quality Fund (Federal)	1,337,500	314,400	26,000	$ 40,600	1,718,500
TOTAL	$ 4,314,700	$ 1,124,100	$ 38,000	$ 40,600	$ 5,517,400
III. WATER QUALITY:					
FROM:					
General Fund	$ 4,565,600	$ 1,547,300	$ 3,500	$1,803,100	$ 7,919,500
Public Water System Supervision Fund	867,800	158,400	6,000	330,200	1,362,400
Water Pollution Control Fund				100,000	100,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality Fund (Receipts)	327,300	85,600	2,000	50,600	465,500
Department of Environmental Quality Fund (Federal)	4,116,100	2,575,500	34,000	2,633,200	9,358,800
TOTAL	$ 9,876,800	$ 4,366,800	$ 45,500	$4,917,100	$19,206,200
IV. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General Fund	$ 2,134,500	$ 434,400		$ 132,100	$ 2,701,000
Environmental Remediation Fund (Box)	25,000	75,000		25,000	125,000
Environmental Remediation Fund (Basin)	100,000	825,000			925,000
Department of Environmental Quality Fund (Receipts)	386,000	430,600	$ 2,000	50,800	869,400
Bunker Hill Trust Fund				300,000	300,000
Department of Environmental Quality Fund (Federal)	2,519,800	9,187,300	14,000	15,200	11,736,300
TOTAL	$ 5,165,300	$10,952,300	$ 16,000	$ 523,100	$16,656,700
V. IDAHO NATIONAL LABORATORY OVERSIGHT:					
FROM:					
General Fund	$ 191,800	$ 8,500			$ 200,300
Department of Environmental Quality Fund (Federal)	953,500	374,900	$ 44,000	$ 585,800	1,958,200
TOTAL	$ 1,145,300	$ 383,400	$ 44,000	$ 585,800	$ 2,158,500
VI. COEUR D'ALENE BASIN COMMISSION:					
FROM:					
Environmental Remediation Fund (Basin)	$ 60,000	$ 15,000			$ 75,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality Fund					
(Federal)	138,000	2,015,000			2,153,000
TOTAL	$ 198,000	$ 2,030,000			$ 2,228,000
GRAND TOTAL	$24,779,600	$21,078,600	$163,500	$6,066,600	$52,088,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred seventy-four and fifty-five hundredths (374.55) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding the provisions of Section 39-3630, Idaho Code, the State Controller is hereby directed to transfer $1,500,000 from the Water Pollution Control Fund to the Environmental Remediation Fund (Basin) for the period July 1, 2005, through June 30, 2006.

SECTION 4. It is legislative intent that moneys deposited into the Environmental Remediation Fund (Basin) 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 no later than January 1 of each year with the Governor, the Legislature, and the Coeur d"Alene Basin Environmental Improvement Project Commission on the remediation progress and the expenditures involved.

SECTION 5. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund in Section 1 of this act specifically supersedes the provisions of Section 39-3630, Idaho Code.

SECTION 6. Whereas, the Big Payette Lake Water Quality Council established by Section 39-6603, Idaho Code, will disband in March 2005, it is legislative intent that any unexpended and unencumbered balances in the Big Payette Lake Water Quality Council Administrative Account be transferred to the Department of Environmental Quality Fund to be used to further protect, preserve and improve the water quality of Big Payette Lake.

Approved April 6, 2005.

CHAPTER 315
(S.B. No. 1212)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2006; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 474,000	$ 358,700		$ 24,800	$ 857,500
Administration and Accounting Services Fund	637,200	132,500	$ 101,800		871,500
Facilities Maintenance Fund	96,400	64,400			160,800
Agriculture in the Classroom Fund		28,000			28,000
TOTAL	$ 1,207,600	$ 583,600	$ 101,800	$ 24,800	$ 1,917,800
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 1,340,200	$ 203,400			$ 1,543,600
Agricultural Fees - Livestock Disease Control Fund	514,100	255,000	$ 113,100		882,200
Agricultural Fees - Dairy Inspection Fund	912,800	282,700	310,000		1,505,500
Agricultural Fees - Egg Inspection Fund	118,200	10,000	12,000		140,200
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Seminars and Publications Fund		96,500			96,500
Federal Grant Fund	792,200	521,000	155,700	$ 327,000	1,795,900
TOTAL	$ 3,683,500	$1,372,800	$ 590,800	$ 327,000	$ 5,974,100
III. AGRICULTURAL RESOURCES:					
FROM:					
General Fund	$ 450,500	$ 440,300			$ 890,800
Agricultural Smoke Management Fund	85,600	55,000			140,600
Agricultural Fees - Pesticides Fund	1,276,300	490,500	$ 129,400		1,896,200
Federal Grant Fund	440,300	167,700			608,000
TOTAL	$ 2,252,700	$1,153,500	$ 129,400		$ 3,535,600
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 463,500	$ 185,200		$ 336,000	$ 984,700
Agricultural Inspection Fund	1,159,200	252,900	$ 83,500	60,000	1,555,600
Agricultural Fees - Commercial Feed and Fertilizer Fund	666,400	164,200	58,100		888,700
Agricultural Fees - Honey Advertising Fund	400	16,000			16,400
Agricultural Fees - Organic Food Products Fund	88,300	30,600			118,900
Quality Assurance Laboratory Services Fund	260,000	40,000			300,000
Federal Grant Fund	644,800	1,618,200	25,000	1,140,000	3,428,000
TOTAL	$ 3,282,600	$2,307,100	$ 166,600	$1,536,000	$ 7,292,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 576,400	$ 197,500			$ 773,900
Agricultural Inspection Fund	125,500	48,800		$ 3,700	178,000
Weights and Measures Inspection Fund	213,200	20,000	$ 81,000		314,200
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	7,989,600	687,700	195,500	413,200	9,286,000
TOTAL	$ 8,904,700	$ 954,000	$ 276,500	$ 416,900	$10,552,100
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 329,100	$ 201,600			$ 530,700
Agricultural Inspection Fund	25,000	10,100			35,100
Seminars and Publications Fund		234,600			234,600
USDA Publications Fund		63,700			63,700
Agricultural Loans Fund	13,300	15,000		$ 5,200	33,500
Federal Grant Fund	58,600	25,000		41,700	125,300
TOTAL	$ 426,000	$ 550,000		$ 46,900	$ 1,022,900
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$ 143,000	$ 143,000
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		164,100	164,300
TOTAL		$ 200		$ 407,100	$ 407,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 55,000	$ 400			$ 55,400
Agricultural Fees - Sheep Industry Regulation Fund	64,100	39,300			103,400
Sheep and Goat Disease Indemnity Fund		20,300			20,300
TOTAL	$ 119,100	$ 60,000			$ 179,100
GRAND TOTAL	$19,876,200	$6,981,200	$1,265,100	$2,758,700	$30,881,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than two hundred two and sixty-hundredths (202.60) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 6, 2005.

CHAPTER 316
(S.B. No. 1213)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE PROGRAM FOR FISCAL YEAR 2006.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:	
General Fund	$24,993,900
Equine Education Fund	136,100
Miscellaneous Revenue Fund (Uncontrolled)	181,900
Federal Grant Fund (Uncontrolled)	4,599,500
TOTAL	$29,911,400

Approved April 6, 2005.

CHAPTER 317
(S.B. No. 1214)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2006; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$1,216,100	$ 757,100	$1,850,000	$3,823,200
Resource Conservation and Rangeland Development Fund		50,600		50,600
Clean Water Revolving Loan Fund (SCC)		80,000		80,000
Federal Grant Fund	182,800	240,400	75,000	498,200
TOTAL	$1,398,900	$1,128,100	$1,925,000	$4,452,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-one (21) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 6, 2005.

CHAPTER 318
(S.B. No. 1215)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF THE GENERAL FUND; AND SETTING FORTH THE CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,882,100	$ 729,200			$ 2,611,300
Miscellaneous Revenue Fund	63,100	18,000	$28,000		109,100
TOTAL	$ 1,945,200	$ 747,200	$28,000		$ 2,720,400
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 591,400	$ 89,200		$ 3,400,900	$ 4,081,500
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,550,000	4,550,000
Juvenile Corrections Fund	39,600	81,700			121,300
Federal Grant Fund	41,800	26,800			68,600
Miscellaneous Revenue Fund				30,000	30,000
TOTAL	$ 672,800	$ 197,700		$ 7,980,900	$ 8,851,400
III. INSTITUTIONS:					
FROM:					
General Fund	$13,917,300	$2,156,900		$10,706,000	$26,780,200
Federal Grant Fund	160,400	153,700		1,080,400	1,394,500
Miscellaneous Revenue Fund		362,000		570,000	932,000
TOTAL	$14,077,700	$2,672,600		$12,356,400	$29,106,700
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 89,800	$ 20,500		$ 37,000	$ 147,300
Federal Grant Fund	278,500	345,300		2,960,600	3,584,400
TOTAL	$ 368,300	$ 365,800		$ 2,997,600	$ 3,731,700
GRAND TOTAL	$17,064,000	$3,983,300	$28,000	$23,334,900	$44,410,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred forty-four and twenty-five hundredths (344.25) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Idaho Department of Juvenile Corrections, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of General Fund moneys that were appropriated to the department for fiscal year 2005, to be used for nonrecurring expenditures, for the period July 1, 2005, through June 30, 2006. This reappropriation shall be used exclusively for the expansion of community-based mental health and substance abuse services.

SECTION 4. The reappropriation for the General Fund granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is zero, the reappropriation for the General Fund in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation of the Idaho Department of Juvenile Corrections bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 6, 2005.

CHAPTER 319
(S.B. No. 1216)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF THE GENERAL FUND; AND SETTING FORTH THE CONDITIONS FOR THE REAPPROPRIATION.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OPERATIONS DIVISION:					
A. OPERATIONS ADMINISTRATION:					
FROM:					
General Fund	$ 438,200	$ 4,550,300			$ 4,988,500
Miscellaneous Revenue Fund		36,200			36,200
Federal Grant Fund		175,500			175,500
TOTAL	$ 438,200	$ 4,762,000			$ 5,200,200
B. OFFENDER PROGRAMS:					
FROM:					
General Fund	$ 555,800	$ 1,053,500			$ 1,609,300
Inmate Labor Fund		250,000			250,000
Miscellaneous Revenue Fund		57,400			57,400
Federal Grant Fund	451,900	689,200			1,141,100
TOTAL	$ 1,007,700	$ 2,050,100			$ 3,057,800
C. COMMUNITY SUPERVISION:					
FROM:					
General Fund	$10,343,400	$ 2,024,600			$ 12,368,000
Parolee Supervision Fund	3,257,400	571,800	$ 119,100		3,948,300
Federal Grant Fund	60,400	107,400			167,800
TOTAL	$13,661,200	$ 2,703,800	$119,100		$ 16,484,100
D. COMMUNITY WORK CENTERS:					
FROM:					
General Fund	$ 2,580,800	$ 53,800			$ 2,634,600
Inmate Labor Fund	167,400	1,087,200			1,254,600
Miscellaneous Revenue Fund		27,200			27,200
TOTAL	$ 2,748,200	$ 1,168,200			$ 3,916,400
E. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$16,338,900	$ 1,131,900	$103,400		$ 17,574,200
Miscellaneous Revenue Fund	391,100	101,100			492,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Penitentiary Endowment Fund		2,723,200			2,723,200
Federal Grant Fund	54,400				54,400
TOTAL	$16,784,400	$ 3,956,200	$103,400		$ 20,844,000
F. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 5,930,100	$ 1,324,500			$ 7,254,600
Inmate Labor Fund	789,200	629,100			1,418,300
Miscellaneous Revenue Fund	97,900	54,500			152,400
Federal Grant Fund		64,200			64,200
TOTAL	$ 6,817,200	$ 2,072,300			$ 8,889,500
G. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 3,090,600	$ 1,014,500			$ 4,105,100
Miscellaneous Revenue Fund	43,300	143,700			187,000
TOTAL	$ 3,133,900	$ 1,158,200			$ 4,292,100
H. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 5,436,100	$ 1,667,300			$ 7,103,400
Inmate Labor Fund	915,500	591,600			1,507,100
Miscellaneous Revenue Fund	41,300	48,700			90,000
Federal Grant Fund	152,700				152,700
TOTAL	$ 6,545,600	$ 2,307,600			$ 8,853,200
I. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 7,238,800	$ 1,624,000			$ 8,862,800
Miscellaneous Revenue Fund	95,200	54,300			149,500
TOTAL	$ 7,334,000	$ 1,678,300			$ 9,012,300
J. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,608,500	$ 442,400			$ 2,050,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Inmate Labor Fund	567,200	470,900	$ 18,100		1,056,200
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 2,175,700	$ 919,500	$ 18,100		$ 3,113,300
K. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 3,910,200	$ 961,200			$ 4,871,400
Inmate Labor Fund	232,100	27,000			259,100
Miscellaneous Revenue Fund	201,200	20,600			221,800
Federal Grant Fund		43,400			43,400
TOTAL	$ 4,343,500	$ 1,052,200			$ 5,395,700
L. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,072,800	$ 704,100	$372,100		$ 3,149,000
Miscellaneous Revenue Fund		7,100			7,100
TOTAL	$ 2,072,800	$ 711,200	$372,100		$ 3,156,100
DIVISION TOTAL	$67,062,400	$24,539,600	$612,700		$ 92,214,700
II. SUPPORT DIVISION:					
A. SUPPORT SERVICES:					
FROM:					
General Fund	$ 4,697,300	$ 2,318,400			$ 7,015,700
Parolee Supervision Fund	85,300	25,600			110,900
Miscellaneous Revenue Fund	120,900	66,500			187,400
Federal Grant Fund	59,400	292,900		$1,750,000	2,102,300
TOTAL	$ 4,962,900	$ 2,703,400		$1,750,000	$ 9,416,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. MEDICAL SERVICES CONTRACT:					
FROM:					
General Fund		$14,745,700			$ 14,745,700
Miscellaneous Revenue Fund		77,500			77,500
TOTAL		$14,823,200			$ 14,823,200
DIVISION TOTAL	$ 4,962,900	$17,526,600		$1,750,000	$ 24,239,500
III. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$18,606,800			$ 18,606,800
Inmate Labor Fund		404,000			404,000
TOTAL		$19,010,800			$ 19,010,800
IV. COMMISSION OF PARDONS AND PAROLE:					
FROM:					
General Fund	$ 1,345,900	$ 280,500			$ 1,626,400
Miscellaneous Revenue Fund		20,300			20,300
TOTAL	$ 1,345,900	$ 300,800			$ 1,646,700
GRAND TOTAL	$73,371,200	$61,377,800	$612,700	$1,750,000	$137,111,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand five hundred twenty-two and four-tenths (1,522.4) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Idaho Department of Correction, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of General Fund moneys that were appropriated to the Department of Correction for fiscal year 2005, to be used for nonrecurring expenditures, for the period July 1, 2005, through June 30, 2006. This reappropriation shall be used exclusively for the expansion of community-based mental health and substance abuse services.

SECTION 4. The reappropriation for the General Fund granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is zero, the reappropriation for the General Fund in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation of the Idaho Department of Correction bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 6, 2005.

CHAPTER 320
(S.B. No. 1217)

AN ACT

RELATING TO IDAHO GRAPE GROWERS AND WINE PRODUCERS; AMENDING SECTION 54-3604, IDAHO CODE, TO PROVIDE THAT COMMISSION MEMBERS CURRENTLY SERVING SHALL CONTINUE TO SERVE UNTIL REAPPOINTED OR UNTIL A NEW MEMBER IS APPOINTED AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 54-3604, Idaho Code, be, and the same is hereby amended to read as follows:

54-3604. COMMISSION MEMBERS -- APPOINTMENT. Grower and producer members of the commission shall be selected as follows:

(1) The governor shall appoint three (3) grower members and two (2) producer members.

(2) The three (3) grower members shall be appointed to one (1), two (2) and three (3) year terms, respectively. The two (2) producer members shall be appointed to two (2) and three (3) year terms, respectively. Members shall be selected from nominations made by growers and producers as follows:

(a) Prior to July 1, the growers of the state shall convene for the purpose of nominating grower commission members. The growers of the state shall nominate at least three (3) and no more than six (6) growers and submit the names to the governor.

(b) Prior to July 1, the producers shall convene for the purpose of nominating producer commission members. The producers shall nominate at least two (2) and no more than four (4) producers and submit the names to the governor.

Initial commission members shall commence their terms, August 1, 1991. Terms of commission members thereafter shall be for three (3) years.

(3) Members of the commission may not serve more than two (2) consecutive terms; provided, upon serving two (2) consecutive terms, and the lapse of one (1) full term, such member may again be appointed to the commission.

(4) Commission members currently serving shall continue to serve until reappointed or until a new commission member is appointed.

(5) In the event there are vacancies in the commission, the governor shall make the appointment or appointments to fill the vacancy.

Approved April 6, 2005.

CHAPTER 321
(S.B. No. 1220)

AN ACT

RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-118, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE REVIEW OF PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF NEW SEWAGE TREATMENT WORKS AND NEW PUBLIC WATER SUPPLY SYSTEMS, WITH EXCEPTIONS; AND TO PROVIDE FOR APPOINTMENT OF A COMMITTEE OF LICENSED PROFESSIONALS TO ASSIST THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN ESTABLISHING FACILITY STANDARDS AND DESIGN STANDARDS FOR NEW SEWAGE SYSTEMS, SEWAGE TREATMENT PLANTS OR SYSTEMS, OTHER WASTE TREATMENT OR DISPOSAL FACILITIES, PUBLIC WATER SUPPLY SYSTEMS OR PUBLIC WATER TREATMENT SYSTEMS.

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

SECTION 1. That Section 39-118, Idaho Code, be, and the same is hereby amended to read as follows:

39-118. REVIEW OF PLANS. (1) Except as provided ~~for--dairy--systems pursuant--to--section--37-401,--Idaho--Code~~ by subsection (2) of this section, all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, public water supply systems or public water treatment systems or for material modification or expansion to existing sewage treatment plants or systems, waste treatment or disposal facilities, public water supply systems or public water treatment systems, shall be submitted to and approved by the director before construction may begin, and all construction shall be in substantial compliance therewith. Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. The director shall review plans and specifications and endeavor to resolve design issues within forty-two (42) days of submittal such that approval can be granted. If the director and applicant have not resolved design issues within forty-two (42) days or at any time thereafter, the applicant may file a written demand to the director for a decision. Upon receipt of such written demand, the director shall deliver a written decision to the applicant within no more than seven (7) days explaining any reasons for disapproval. The director shall maintain records of all written demands for decision made pursuant to this subsection with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made from the approved plans and specifications without the prior approval of the director.

(2) Plans meeting the following standards shall not require preconstruction approval by the director:

(a) Plans for dairy systems pursuant to section 37-401, Idaho Code.

(b) Plans developed to evidence compliance with storm water best management practices.

(c) Plans developed for routine maintenance or equipment replacement activities.

(d) Plans for sanitary sewer extensions, water main extensions, and storm drain extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility where such city, county, quasi-municipal corporation or regulated public utility provides for the review of such plans and specifications by a qualified licensed professional engineer to verify compliance with facility standards and approves construction plans prior to initiation of construction. Any plans approved pursuant to this subsection shall be transmitted to the director at the time construction is authorized along with a statement that the plans comply with the facility standards and that construction has been authorized by the public agency or public utility. At the discretion of any city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the director for review and approval prior to initiation of construction.

(3) Within thirty (30) days of the completion of construction~~, alteration, or modification of any new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, public water supply systems or public water treatment systems, complete and accurate~~ of facilities for which plans are required to be reviewed pursuant to subsection (1) or subsection (2)(d) of this section, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction~~, alteration, or modification~~ of facilities performed must be submitted to the director by the engineer representing the public agency or regulated public utility, if the resultant facilities will be owned and operated by a public agency or regulated public utility, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a public agency or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans or disclose any material deviations therefrom. If construction does not materially deviate from the original plans and specifications previously ~~submitted for approval,~~ provided to the department, the owner may have a statement to that effect ~~shall be~~ prepared by a licensed professional engineer and filed with the ~~director~~ department in lieu of submitting a complete and accurate set of record drawings.

(~~2~~4) All plans and specifications submitted to satisfy the requirements of subsection (1) of this section and all plans approved pursuant to subsection (2)(d) of this section shall be in compliance with applicable facility and design standards and conform in style and quality to regularly accepted engineering standards. The department shall review plans to determine compliance with applicable facility standards and engineering standards of care. As long as the plans and specifications comply with applicable facility and design standards, the

department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with design standards. Except with respect to plans and specifications for facilities addressed in subsection (~~3~~5) of this section, and confined animal feeding operations, the board may require that certain types of plans and specifications must be ~~certified~~ stamped by registered professional engineers. If the director determines that any particular facility or category of facilities will produce no significant impact on the environment or on the public health, the director shall be authorized to waive the submittal or approval requirement for that facility or category of facilities.

(~~3~~5) All plans and specifications for the construction, modification, expansion, or alteration of waste treatment or disposal facilities for aquaculture facilities licensed by the department of agriculture for both commercial fish propagation facilities as defined in section 22-4601, Idaho Code, and sport fish propagation facilities whether private or operated or licensed by the department of fish and game and other aquaculture facilities as defined in the Idaho waste management guidelines for aquaculture operations, shall be submitted to and approved by the director of the department of environmental quality before construction may begin and all construction shall be in compliance therewith. The director shall review plans and specifications within forty-five (45) days of submittal and notify the owner or responsible party of approval or disapproval. In the event of disapproval the director shall provide reasons for disapproval in writing to the owner or responsible party. Plans and specifications shall conform in style and quality to standard industry practices and guidelines developed pursuant to this subsection. The director shall establish industry guidelines or best management practices subcommittees composed of members of the department, specific regulatory agencies for the industry, general public, and persons involved in the industry to develop and update guidelines or best management practices as needed. Within thirty (30) days of the completion of the construction, modification, expansion or alteration of facilities subject to this subsection, the owner or responsible party shall submit a statement to the director that the construction has been completed and is in substantial compliance with the plans and specifications as submitted and approved. The director shall conduct an inspection within sixty (60) days of the date of submission of the statement and shall inform the owner or responsible party of its approval of the construction or in the event of nonapproval, the reasons for nonapproval.

SECTION 2. The Director of the Department of Environmental Quality shall appoint a committee of licensed professional engineers who are regularly engaged in the design of facilities regulated by Section 39-118(1), Idaho Code, to assist the Department of Environmental Quality in establishing facility standards and design standards for such facilities. Such standards shall be adopted no later than June 30, 2006.

Approved April 6, 2005.

CHAPTER 322
(S.B. No. 1224)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF CHILDREN'S PROGRAMS; PROVIDING A DESCRIPTION OF THE PUBLIC SCHOOLS DIVISION OF CHILDREN'S PROGRAMS AND PROVIDING THE AMOUNTS TO BE EXPENDED; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2006; DIRECTING THAT $4,700,000 OF THE MONEYS ACCRUING PURSUANT TO SECTIONS 63-2506 AND 63-2552A, IDAHO CODE, AND SUCH OTHER MONEYS WHICH MAY BECOME AVAILABLE PURSUANT TO SECTION 63-7439, IDAHO CODE, BE EXPENDED FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; DIRECTING THE DISTRIBUTION OF FUNDS FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO FEATURES OF THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; DIRECTING THAT $2,800,000 BE USED FOR THE LITERACY PROGRAMS AND EXPRESSING LEGISLATIVE INTENT THAT THE STATE DEPARTMENT OF EDUCATION AND STATE BOARD OF EDUCATION COORDINATE CERTAIN PROGRAMS; DIRECTING THAT $5,060,000 BE ALLOCATED FOR PROGRAMS FOR STUDENTS WITH NON-ENGLISH OR LIMITED-ENGLISH PROFICIENCY; DIRECTING THAT $900,000 BE DISTRIBUTED TO THE IDAHO DIGITAL LEARNING ACADEMY; AND GRANTING AUTHORITY TO TRANSFER FUNDS BETWEEN THE FIVE DIVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM BUDGET.

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

SECTION 1. The Public Schools Division of Children's Programs includes programs that provide direct educational or material benefits to children, where funding does not primarily go to paying certificated teachers and administrators. It also includes programs that primarily and specifically provide funding for the separate instruction of identified subgroups of children outside the normal classroom of an Idaho public school. The following amount shall be expended from the listed sources for the Public Schools Division of Children's Programs for the period July 1, 2005, through June 30, 2006:

FROM:

General Fund	$ 15,710,000
Cigarette/Tobacco and Lottery Income Taxes	4,700,000
Federal Grant Fund	103,545,600
TOTAL	$123,955,600

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2005, through June 30, 2006:

FROM:

General Fund	$15,710,000

SECTION 3. There is hereby appropriated to the Educational Support Program/Division of Children's Programs, pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:

Public School Income Fund	$ 20,410,000
Federal Grant Fund	103,545,600
TOTAL	$123,955,600

SECTION 4. Of the moneys appropriated in Section 3 of this act, $4,700,000 shall be expended by the Superintendent of Public Instruction for the Idaho Safe and Drug-Free Schools Program, from funds determined by available revenues accruing pursuant to Sections 63-2506 and 63-2552A, Idaho Code, and other such moneys which may become available pursuant to Section 67-7439, Idaho Code, for the period July 1, 2005, through June 30, 2006.

SECTION 5. The funds allocated for the Idaho Safe and Drug-Free Schools Program in Section 4 of this act shall be distributed as follows: the provisions of Section 63-2552A(3), Idaho Code, notwithstanding, $200,000 shall be remitted to the Idaho State Police; $100,000 may be utilized by the Superintendent of Public Instruction for program administration, technical assistance and evaluation. Of the remaining amount, ninety-two percent (92%) shall be distributed to each school district through a combination of a base amount of $1,500 and a prorated amount based on the prior year's average daily attendance. Such funds shall be used either to fund Idaho Safe and Drug-Free Schools Programs or to defray the costs of community resource workers, or both, at the discretion of the school district board of trustees. The remaining eight percent (8%), shall be used to make discretionary grants as determined by the Idaho Safe and Drug-Free Schools and Communities Advisory Board, including up to $80,000 in subgrants that may be authorized to the Commission on Hispanic Affairs.

SECTION 6. It is legislative intent that the Idaho Safe and Drug-Free Schools Program shall include the following:

(1) Districts will develop a policy and plan which will provide a guide for their substance abuse programs.

(2) Districts will have an advisory board to assist each district in making decisions relating to the programs.

(3) The districts' substance abuse programs will be comprehensive to meet the needs of all students. This will include prevention programs, student assistance programs that address early identification and referral, and aftercare.

(4) Districts shall submit an annual evaluation of their programs to the State Department of Education as to the effectiveness of their programs.

SECTION 7. Of the moneys appropriated in Section 3 of this act, $2,800,000 shall be used for literacy programs, as outlined in Sections 33-1614, 33-1615 and 33-1207A(2), Idaho Code. It is legislative intent that the State Board of Education and State Department of Education coordinate federally funded literacy programs with state literacy programs, resulting in well-coordinated, complementary literacy efforts.

SECTION 8. Of the moneys appropriated in Section 3 of this act, $5,060,000 shall be distributed for support of programs for students with non-English or limited-English proficiency, allocated to school

districts pro rata based upon the population of limited-English proficient students under criteria established by the State Department of Education.

SECTION 9. Of the moneys appropriated in Section 3 of this act, $900,000 shall be distributed to the Idaho Digital Learning Academy, created pursuant to Chapter 55, Title 33, Idaho Code. The highest priority for such funds shall be to provide remedial coursework for students failing to achieve proficiency in one (1) or more areas of the Idaho Standards Achievement Test. Funds may also be used to provide basic coursework, advanced placement coursework, and other specialized coursework not available in many small school districts.

SECTION 10. The State Department of Education is hereby granted the authority to transfer funds between the five (5) divisions of the Educational Support Program budget, in any amount necessary, to comply with the public school funding provisions of appropriations and the Idaho Code.

Approved April 6, 2005.

CHAPTER 323
(S.B. No. 1225)

AN ACT

RELATING TO THE APPROPRIATION FOR THE PUBLIC SCHOOLS DIVISION OF FACILITIES; APPROPRIATING FUNDS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF FACILITIES FOR FISCAL YEAR 2006; TRANSFERRING AND APPROPRIATING CERTAIN FUNDS TO THE BOND LEVY EQUALIZATION FUND; AND DIRECTING THE DISTRIBUTION OF CERTAIN FUNDS PURSUANT TO IDAHO CODE.

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

SECTION 1. There is hereby appropriated to the Educational Support Program/Division of Facilities, pursuant to law and the provisions of this act, the following amount to be expended from the listed fund for the period July 1, 2005, through June 30, 2006:

FROM:

School District Building Account	$13,450,000

SECTION 2. The provisions of Section 33-905, Idaho Code, notwithstanding, of the moneys appropriated in Section 1 of this act, the amount necessary to fund the provisions of Section 33-906, Idaho Code, is hereby transferred and appropriated from the School District Building Account to the Bond Levy Equalization Fund. The Bond Levy Equalization Fund is hereby continuously appropriated for the period July 1, 2005, through June 30, 2006, pursuant to the funding requirements of Section 33-906, Idaho Code.

SECTION 3. Any moneys appropriated in Section 1 of this act that are not utilized to satisfy the provisions of Section 2 of this act, up to a maximum of $8,922,500, shall be distributed pursuant to the provisions of Section 33-905, Idaho Code.

Approved April 6, 2005.

CHAPTER 324
(S.B. No. 1228)

AN ACT

RELATING TO AIR QUALITY; AMENDING SECTION 39-115, IDAHO CODE, AS AMENDED BY SECTION 2, HOUSE BILL NO. 230, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO REVISE PERMIT REQUIREMENTS FOR ANY MAJOR OR MINOR AIR POLLUTION SOURCE IN IDAHO, TO DEFINE A TERM AND TO REVISE STRINGENCY.

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

SECTION 1. That Section 39-115, Idaho Code, as amended by Section 2, House Bill No. 230, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

39-115. POLLUTION SOURCE PERMITS.

(1) (a) The director shall have the authority to issue pollution source permits in compliance with rules established hereunder.

(b) To determine the applicability of permit requirements for any major or minor air pollution source in Idaho, the department shall develop and recommend to the board for adoption, rules that define "regulated air pollutant" as follows:

(i) For purposes of a major source permit to operate issued or modified by the department in accordance with title V of the federal clean air act amendments of 1990, "regulated air pollutant" shall have the same meaning as in title V of the federal clean air act amendments of 1990, and any applicable federal regulations promulgated pursuant to title V of the federal clean air act amendments of 1990;

(ii) For purposes of any other operating permit issued or modified by the department, the federal definition of "regulated air pollutant" as defined in subsection (1)(b)(i) of this section shall also apply;

(iii) For purposes of any permit to construct issued or modified by the department pursuant to part D of subchapter I of the federal clean air act, "regulated air pollutant" shall mean those air contaminants that are regulated pursuant to part D of subchapter I of the federal clean air act and applicable federal regulations promulgated pursuant to part D of subchapter I of the federal clean air act; and

(iv) For purposes of major source compliance with 42 U.S.C. section 7412(g) and (i)(1), "regulated air pollutant" shall mean those air contaminants that are listed pursuant to 42 U.S.C. section 7412(b); and

(v) For purposes of any other major or minor permit to construct issued or modified by the department, "regulated air pollutant" shall mean those air contaminants that are regulated pursuant to part C of subchapter I of the federal clean air act and any applicable federal regulations promulgated pursuant to part C of subchapter I of the federal clean air act.

(c) To determine the applicability of any permit to construct or permit to operate requirement to any air pollution source in Idaho, fugitive emissions shall not be included in any applicability calculation, unless ~~expressly~~ required by 42 U.S.C. section 7401 et seq. or any implementing regulation promulgated thereunder. The director shall develop and the board shall adopt rules that provide that, for both major and minor source permit applicability determinations, fugitive emissions shall be included only as ~~expressly~~ required by ~~federal law~~ 42 U.S.C. section 7401 et seq. or any implementing regulation promulgated thereunder.

(d) The director shall develop and recommend to the board for adoption through rulemaking, criteria to determine insignificant activities and such sources or modification with emissions at or below the de minimis level which shall not require either a permit to construct or a permit to operate; provided however, that a registration of the activities or sources may be required.

(2) The director shall have the authority to sue in competent courts to enjoin any threatened or continuing:

(a) Violations of pollution source permits or conditions thereof without the necessity of a prior revocation of the permit; or

(b) Construction of an industrial or commercial air pollution source without a permit required under this chapter or rules adopted hereunder.

(3) The department is authorized to charge and collect a fee for processing applications for industrial or commercial air pollution source permits in accordance with a fee schedule established by the board pursuant to this chapter. For fees charged for operating permits under title V of the federal clean air act amendments of 1990, the department shall not charge a fee on any hazardous air pollutant other than those listed under section 112 of the federal clean air act. The fee schedule shall be structured to provide an incentive for emission reduction.

(4) The director may issue air emission source permits to construct a facility to incinerate any waste or waste item contaminated with polychlorinated biphenyls (PCBs) only if the director finds:

(a) The facility will not be sited in complex valley terrain where the valley floor is less than five (5) miles wide and the valley walls rise more than one thousand (1,000) feet;

(b) The facility has complied with local planning and zoning requirements;

(c) There has been an opportunity for public participation; and

(d) The facility will employ best available technology and instrumentation.

Subsection (4) of this section shall not apply to incineration activities existing on or before January 1, 1987.

Approved April 6, 2005.

CHAPTER 325
(S.B. No. 1230)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2006 TO STATE AGENCIES AND INSTITUTIONS FOR THE TWENTY-SEVENTH PAYROLL FOR STATE EMPLOYEES; AND STATING LEGISLATIVE INTENT TO RETURN UNUSED FUNDS TO THE ECONOMIC RECOVERY FUND.

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

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

		TOTAL
(1) AGRICULTURAL RESEARCH AND EXTENSION SERVICE:		
FROM:		
Economic Recovery Reserve Fund		$ 802,800
(2) STATE BOARD OF EDUCATION		
COLLEGE AND UNIVERSITIES:		
FROM:		
Economic Recovery Reserve Fund		$ 4,247,900
(3) STATE BOARD OF EDUCATION		
IDAHO SCHOOL FOR THE DEAF AND THE BLIND		
I. CAMPUS OPERATIONS:		
FROM:		
Economic Recovery Reserve Fund	$ 166,100	
II. OUTREACH SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 56,100	
TOTAL		$ 222,200
(4) STATE BOARD OF EDUCATION		
OFFICE OF THE STATE BOARD OF EDUCATION:		
FROM:		
Economic Recovery Reserve Fund	$ 43,900	
Federal Grant Fund	12,900	
TOTAL		$ 56,800
(5) STATE BOARD OF EDUCATION		
HEALTH EDUCATION PROGRAMS		
I. WOI VETERINARY EDUCATION:		
FROM:		
Economic Recovery Reserve Fund	$ 16,800	
II. WWAMI MEDICAL EDUCATION:		
FROM:		
Economic Recovery Reserve Fund	$ 17,800	
III. IDEP DENTAL EDUCATION:		
FROM:		
Economic Recovery Reserve Fund	$ 2,700	
Unrestricted Current Fund	1,500	
SUBTOTAL	$ 4,200	

		TOTAL
IV. FAMILY PRACTICE RESIDENCIES:		
FROM:		
Economic Recovery Reserve Fund	$ 15,500	
TOTAL		$ 54,300
(6) STATE BOARD OF EDUCATION		
IDAHO STATE HISTORICAL SOCIETY		
I. HISTORIC PRESERVATION AND EDUCATION:		
FROM:		
Economic Recovery Reserve Fund	$ 43,600	
Miscellaneous Revenue Fund	4,700	
Federal Grant Fund	26,800	
SUBTOTAL	$ 75,100	
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:		
FROM:		
Economic Recovery Reserve Fund	$ 5,400	
Miscellaneous Revenue Fund	6,400	
SUBTOTAL	$ 11,800	
TOTAL		$ 86,900
(7) STATE BOARD OF EDUCATION		
IDAHO STATE LIBRARY:		
FROM:		
Economic Recovery Reserve Fund	$ 59,300	
Federal Grant Fund	8,100	
TOTAL		$ 67,400
(8) STATE BOARD OF EDUCATION		
DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION		
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:		
FROM:		
Economic Recovery Reserve Fund	$ 54,900	
Federal Grant Fund	10,800	
SUBTOTAL	$ 65,700	
II. GENERAL PROGRAMS:		
FROM:		
Economic Recovery Reserve Fund	$ 7,400	
Federal Grant Fund	5,600	
SUBTOTAL	$ 13,000	
III. POSTSECONDARY PROGRAMS:		
FROM:		
Economic Recovery Reserve Fund	$ 999,100	
IV. CAREER INFORMATION SYSTEM:		
FROM:		
Economic Recovery Reserve Fund	$ 8,800	
Miscellaneous Revenue Fund	7,800	
SUBTOTAL	$ 16,600	
TOTAL		$ 1,094,400
(9) STATE BOARD OF EDUCATION		
EDUCATIONAL PUBLIC BROADCASTING SYSTEM:		
FROM:		
Economic Recovery Reserve Fund	$ 25,600	
Miscellaneous Revenue Fund	32,900	
TOTAL		$ 58,500

		TOTAL
(10) STATE BOARD OF EDUCATION		
SPECIAL PROGRAMS		
I. FOREST UTILIZATION RESEARCH:		
FROM:		
Economic Recovery Reserve Fund	$ 14,700	
II. GEOLOGICAL SURVEY:		
FROM:		
Economic Recovery Reserve Fund	$ 26,900	
III. MUSEUM OF NATURAL HISTORY:		
FROM:		
Economic Recovery Reserve Fund	$ 15,900	
TOTAL		$ 57,500
(11) SUPERINTENDENT OF PUBLIC INSTRUCTION		
STATE DEPARTMENT OF EDUCATION:		
FROM:		
Indirect Cost Recovery Fund	$ 12,100	
Economic Recovery Reserve Fund	93,600	
Driver's Education Fund	3,900	
Public Instruction Fund	11,600	
Miscellaneous Revenue Fund	3,500	
Federal Grant Fund	101,100	
TOTAL		$ 225,800
(12) STATE BOARD OF EDUCATION		
VOCATIONAL REHABILITATION		
I. COMMUNITY SUPPORTED EMPLOYMENT:		
FROM:		
Economic Recovery Reserve Fund	$ 3,300	
II. VOCATIONAL REHABILITATION:		
FROM:		
Economic Recovery Reserve Fund	$ 58,800	
Federal Grant Fund	217,100	
SUBTOTAL	$ 275,900	
TOTAL		$ 279,200
(13) DEPARTMENT OF HEALTH AND WELFARE		
CHILD WELFARE:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 617,400	
Cooperative Welfare Fund (Federal)	109,000	
TOTAL		$ 726,400
(14) DEPARTMENT OF HEALTH AND WELFARE		
DEVELOPMENTALLY DISABLED SERVICES		
I. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 172,700	
Cooperative Welfare Fund (Federal)	103,600	
SUBTOTAL	$ 276,300	

		TOTAL
II. IDAHO STATE SCHOOL AND HOSPITAL:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 171,600	
Cooperative Welfare Fund (Federal)	411,800	
SUBTOTAL	$ 583,400	
TOTAL		$ 859,700
(15) DEPARTMENT OF HEALTH AND WELFARE		
INDEPENDENT COUNCILS		
I. COUNCIL FOR THE DEAF AND HARD OF HEARING:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 4,700	
II. DEVELOPMENTAL DISABILITIES COUNCIL:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 10,200	
III. DOMESTIC VIOLENCE COUNCIL:		
FROM:		
Domestic Violence Project Fund	$ 9,400	
TOTAL		$ 24,300
(16) DEPARTMENT OF HEALTH AND WELFARE		
INDIRECT SUPPORT SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 347,500	
Cooperative Welfare Fund (Federal)	284,300	
TOTAL		$ 631,800
(17) DEPARTMENT OF HEALTH AND WELFARE		
MEDICAL ASSISTANCE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 187,600	
Idaho Health Insurance Access Card Fund	3,300	
Cooperative Welfare Fund (Federal)	337,200	
TOTAL		$ 528,100
(18) DEPARTMENT OF HEALTH AND WELFARE		
PSYCHIATRIC HOSPITALIZATION		
I. STATE HOSPITAL NORTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 158,500	
II. STATE HOSPITAL SOUTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 436,000	
TOTAL		$ 594,500

		TOTAL
(19) DEPARTMENT OF HEALTH AND WELFARE		
MENTAL HEALTH SERVICES		
I. CHILDRENS MENTAL HEALTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 139,200	
Cooperative Welfare Fund (Federal)	24,600	
SUBTOTAL	$ 163,800	
II. COMMUNITY MENTAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 347,500	
Cooperative Welfare Fund (Federal)	57,900	
SUBTOTAL	$ 405,400	
TOTAL		$ 569,200
(20) DEPARTMENT OF HEALTH AND WELFARE		
PUBLIC HEALTH SERVICES		
I. PHYSICAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 237,500	
Cooperative Welfare Fund (Federal)	15,200	
SUBTOTAL	$ 252,700	
II. EMERGENCY MEDICAL SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 23,800	
Emergency Medical Services Fund	38,900	
SUBTOTAL	$ 62,700	
III. LABORATORY SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 77,300	
IV. SUBSTANCE ABUSE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 25,200	
TOTAL		$ 417,900
(21) DEPARTMENT OF HEALTH AND WELFARE		
DIVISION OF WELFARE		
SELF-RELIANCE PROGRAMS:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Economic Recovery Reserve Fund	$ 399,500	
Cooperative Welfare Fund (Federal)	488,300	
TOTAL		$ 887,800
(22) STATE INDEPENDENT LIVING COUNCIL:		
To be deposited into the State Independent Living Council Fund		
FROM:		
Economic Recovery Reserve Fund	$ 5,100	
TOTAL		$ 5,100

		TOTAL
(23) PUBLIC HEALTH DISTRICTS:		
To be deposited into the Public Health Trust Fund		
FROM:		
Economic Recovery Reserve Fund		$ 271,400
(24) DEPARTMENT OF CORRECTION		
SUPPORT DIVISION		
SUPPORT SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 157,200	
Parolee Supervision Fund	2,700	
Miscellaneous Revenue Fund	4,100	
Federal Grant Fund	1,900	
TOTAL		$ 165,900
(25) DEPARTMENT OF CORRECTION		
OPERATIONS DIVISION		
I. OPERATIONS ADMINISTRATION:		
FROM:		
Economic Recovery Reserve Fund	$ 15,200	
II. OFFENDER PROGRAMS:		
FROM:		
Economic Recovery Reserve Fund	$ 19,100	
Federal Grant Fund	11,400	
SUBTOTAL	$ 30,500	
III. COMMUNITY SUPERVISION:		
FROM:		
Economic Recovery Reserve Fund	$ 341,100	
Parolee Supervision Fund	86,700	
Federal Grant Fund	2,200	
SUBTOTAL	$ 430,000	
IV. COMMUNITY WORK CENTERS:		
FROM:		
Economic Recovery Reserve Fund	$ 84,100	
Inmate Labor Fund	5,500	
SUBTOTAL	$ 89,600	
V. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
Economic Recovery Reserve Fund	$ 509,600	
Miscellaneous Revenue Fund	13,100	
Federal Grant Fund	1,800	
SUBTOTAL	$ 524,500	
VI. IDAHO CORRECTIONAL INSTITUTION - OROFINO:		
FROM:		
Economic Recovery Reserve Fund	$ 191,600	
Inmate Labor Fund	26,500	
Miscellaneous Revenue Fund	3,200	
SUBTOTAL	$ 221,300	
VII. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:		
FROM:		
Economic Recovery Reserve Fund	$ 100,000	
Miscellaneous Revenue Fund	1,400	
SUBTOTAL	$ 101,400	

		TOTAL
VIII. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
Economic Recovery Reserve Fund	$ 182,700	
Inmate Labor Fund	30,200	
Miscellaneous Revenue Fund	1,400	
Federal Grant Fund	1,800	
SUBTOTAL	$ 216,100	
IX. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:		
FROM:		
Economic Recovery Reserve Fund	$ 235,000	
Miscellaneous Revenue Fund	3,100	
SUBTOTAL	$ 238,100	
X. ST. ANTHONY WORK CAMP:		
FROM:		
Economic Recovery Reserve Fund	$ 51,600	
Inmate Labor Fund	20,800	
SUBTOTAL	$ 72,400	
XI. POCATELLO WOMEN'S CORRECTIONAL CENTER:		
FROM:		
Economic Recovery Reserve Fund	$ 126,700	
Inmate Labor Fund	7,600	
Miscellaneous Revenue Fund	6,500	
SUBTOTAL	$ 140,800	
XII. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:		
FROM:		
Economic Recovery Reserve Fund	$ 26,700	
TOTAL		$ 2,106,600
(26) DEPARTMENT OF CORRECTION		
COMMISSION FOR PARDONS AND PAROLE:		
FROM:		
Economic Recovery Reserve Fund		$ 44,500
(27) DEPARTMENT OF JUVENILE CORRECTIONS		
I. ADMINISTRATION:		
FROM:		
Economic Recovery Reserve Fund	$ 63,100	
Miscellaneous Revenue Fund	2,000	
SUBTOTAL	$ 65,100	
II. COMMUNITY SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 19,800	
Juvenile Corrections Fund	1,400	
Federal Grant Fund	1,300	
SUBTOTAL	$ 22,500	
III. INSTITUTIONS:		
FROM:		
Economic Recovery Reserve Fund	$ 450,100	
Federal Grant Fund	10,400	
SUBTOTAL	$ 460,500	

		TOTAL
IV. JUVENILE JUSTICE COMMISSION:		
FROM:		
Economic Recovery Reserve Fund	$ 3,100	
Federal Grant Fund	9,300	
SUBTOTAL	$ 12,400	
TOTAL		$ 560,500
(28) IDAHO STATE POLICE		
BRAND INSPECTION:		
FROM:		
State Brand Board Fund		$ 69,300
(29) IDAHO STATE POLICE		
DIVISION OF IDAHO STATE POLICE		
I. DIRECTOR'S OFFICE:		
FROM:		
Economic Recovery Reserve Fund	$ 61,500	
Idaho Law Enforcement Fund	2,900	
Federal Grant Fund	23,800	
SUBTOTAL	$ 88,200	
II. EXECUTIVE PROTECTION:		
FROM:		
Economic Recovery Reserve Fund	$ 7,100	
III. INVESTIGATIONS:		
FROM:		
Economic Recovery Reserve Fund	$ 165,600	
Drug Donation Fund	3,800	
Federal Grant Fund	4,100	
SUBTOTAL	$ 173,500	
IV. PATROL:		
FROM:		
Economic Recovery Reserve Fund	$ 65,400	
Idaho Law Enforcement Fund	455,200	
Hazardous Materials/Waste Enforcement Fund	4,600	
Federal Grant Fund	33,800	
SUBTOTAL	$ 559,000	
V. LAW ENFORCEMENT PROGRAMS:		
FROM:		
Economic Recovery Reserve Fund	$ 24,700	
Miscellaneous Revenue Fund	2,500	
Federal Grant Fund	1,300	
SUBTOTAL	$ 28,500	
VI. SUPPORT SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 47,400	
Idaho Law Enforcement Fund	16,600	
Idaho Law Enforcement Telecommunications Fund	10,900	
Miscellaneous Revenue Fund	24,300	
SUBTOTAL	$ 99,200	
VII. FORENSIC SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 66,700	
Miscellaneous Revenue Fund	2,500	
SUBTOTAL	$ 69,200	
TOTAL		$ 1,024,700

		TOTAL
(30) IDAHO STATE POLICE		
POST ACADEMY		
PEACE OFFICERS' STANDARDS AND TRAINING ACADEMY:		
FROM:		
Peace Officers Fund	$ 35,100	
Federal Grant Fund	2,500	
TOTAL		$ 37,600
(31) IDAHO STATE POLICE		
RACING COMMISSION:		
FROM:		
Idaho State Racing Commission Fund		$ 12,500
(32) DEPARTMENT OF ENVIRONMENTAL QUALITY		
I. ADMINISTRATION AND SUPPORT SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 52,700	
Air Quality Permitting Fund	6,200	
Public Water System Supervision Fund	10,200	
Department of Environmental Quality Fund (Receipts)	2,900	
Department of Environmental Quality Fund (Federal)	64,300	
SUBTOTAL	$ 136,300	
II. AIR QUALITY:		
FROM:		
Economic Recovery Reserve Fund	$ 60,600	
Air Quality Permitting Fund	37,500	
Department of Environmental Quality Fund (Receipts)	2,600	
Department of Environmental Quality Fund (Federal)	45,200	
SUBTOTAL	$ 145,900	
III. WATER QUALITY:		
FROM:		
Economic Recovery Reserve Fund	$ 154,000	
Public Water System Supervision Fund	29,700	
Department of Environmental Quality Fund (Receipts)	8,800	
Department of Environmental Quality Fund (Federal)	134,300	
SUBTOTAL	$ 326,800	
IV. WASTE MANAGEMENT AND REMEDIATION:		
FROM:		
Economic Recovery Reserve Fund	$ 73,400	
Department of Environmental Quality Fund (Receipts)	13,300	
Department of Environmental Quality Fund (Federal)	89,400	
SUBTOTAL	$ 176,100	

		TOTAL
V. IDAHO NATIONAL LABORATORY OVERSIGHT:		
FROM:		
Economic Recovery Reserve Fund	$ 6,600	
Department of Environmental Quality Fund (Federal)	32,700	
SUBTOTAL	$ 39,300	
TOTAL		$ 824,400
(33) DEPARTMENT OF FISH AND GAME		
I. ADMINISTRATION:		
FROM:		
Fish and Game Fund (Licenses)	$ 90,800	
Fish and Game Fund (Federal)	95,300	
SUBTOTAL	$ 186,100	
II. ENFORCEMENT:		
FROM:		
Fish and Game Fund (Licenses)	$ 225,600	
Fish and Game Fund (Other)	3,000	
SUBTOTAL	$ 228,600	
III. FISHERIES:		
FROM:		
Fish and Game Fund (Licenses)	$ 106,500	
Fish and Game Fund (Other)	45,300	
Fish and Game Set-Aside Fund (Licenses)	6,000	
Fish and Game Set-Aside Fund (Other)	2,300	
Fish and Game Expendable Trust Fund	2,900	
Fish and Game Fund (Federal)	369,600	
SUBTOTAL	$ 532,600	
IV. WILDLIFE:		
FROM:		
Fish and Game Fund (Licenses)	$ 113,800	
Fish and Game Fund (Other)	8,400	
Fish and Game Set-Aside Fund (Other)	26,900	
Fish and Game Expendable Trust Fund	12,700	
Non-Expendable Trust Fund	400	
Fish and Game Fund (Federal)	120,200	
SUBTOTAL	$ 282,400	
V. COMMUNICATIONS:		
FROM:		
Fish and Game Fund (Licenses)	$ 48,200	
Fish and Game Fund (Other)	2,900	
Fish and Game Set-Aside Fund (Other)	5,000	
Fish and Game Fund (Federal)	20,400	
SUBTOTAL	$ 76,500	
VI. ENGINEERING:		
FROM:		
Fish and Game Fund (Licenses)	$ 27,900	
VII. NATURAL RESOURCE POLICY:		
FROM:		
Fish and Game Fund (Licenses)	$ 21,200	
Fish and Game Fund (Other)	6,400	
Fish and Game Set-Aside Fund (Other)	4,100	
Fish and Game Fund (Federal)	61,000	
SUBTOTAL	$ 92,700	

		TOTAL
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:		
FROM:		
Fish and Game Fund (Licenses)	$ 15,200	
Fish and Game Set-Aside Fund (Licenses)	1,800	
SUBTOTAL	$ 17,000	
TOTAL		$ 1,443,800
(34) BOARD OF LAND COMMISSIONERS		
ENDOWMENT FUND INVESTMENT BOARD:		
FROM:		
Miscellaneous Revenue Fund	$ 3,700	
Endowment Administrative Fund	8,400	
TOTAL		$ 12,100
(35) DEPARTMENT OF LANDS		
I. SUPPORT SERVICES:		
FROM:		
Department of Lands Fund	$ 14,600	
Economic Recovery Reserve Fund	14,900	
Endowment Administrative Fund	49,800	
SUBTOTAL	$ 79,300	
II. FOREST RESOURCES MANAGEMENT:		
FROM:		
Department of Lands Fund	$ 69,800	
Economic Recovery Reserve Fund	35,600	
Endowment Administrative Fund	226,100	
Federal Grant Fund	24,400	
SUBTOTAL	$ 355,900	
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:		
FROM:		
Department of Lands Fund	$ 700	
Economic Recovery Reserve Fund	24,200	
Endowment Administrative Fund	64,700	
SUBTOTAL	$ 89,600	
IV. FOREST AND RANGE FIRE PROTECTION:		
FROM:		
Department of Lands Fund	$ 87,400	
Fire Suppression Deficiency Fund	4,000	
Economic Recovery Reserve Fund	28,300	
Federal Grant Fund	26,500	
SUBTOTAL	$ 146,200	
V. SCALING PRACTICES:		
FROM:		
Department of Lands Fund	$ 6,300	
TOTAL		$ 677,300
(36) DEPARTMENT OF PARKS AND RECREATION		
I. MANAGEMENT SERVICES:		
FROM:		
Indirect Cost Recovery Fund	$ 7,400	
Economic Recovery Reserve Fund	55,300	
Parks and Recreation Fund	22,800	
Recreational Fuels Fund	9,900	

		TOTAL
Parks and Recreation Registration Fund	3,000	
Miscellaneous Revenue Fund	100	
Federal Grant Fund	2,200	
SUBTOTAL	$ 100,700	
II. PARK OPERATIONS:		
FROM:		
Indirect Cost Recovery Fund	$ 1,200	
Economic Recovery Reserve Fund	142,300	
Parks and Recreation Fund	53,300	
Recreational Fuels Fund	8,800	
Parks and Recreation Registration Fund	11,100	
Miscellaneous Revenue Fund	300	
Public Recreation Enterprise Fund	11,700	
Parks and Recreation Expendable Trust Fund	9,600	
Federal Grant Fund	33,700	
SUBTOTAL	$ 272,000	
TOTAL		$ 372,700
(37) DEPARTMENT OF PARKS AND RECREATION		
LAVA HOT SPRINGS FOUNDATION:		
FROM:		
Public Recreation Enterprise - Lava Hot Springs Fund		$ 20,600
(38) DEPARTMENT OF WATER RESOURCES		
I. MANAGEMENT AND SUPPORT SERVICES:		
FROM:		
Indirect Cost Recovery Fund	$ 9,400	
Economic Recovery Reserve Fund	30,800	
Water Administration Fund	1,300	
SUBTOTAL	$ 41,500	
II. PLANNING AND TECHNICAL SERVICES:		
FROM:		
Indirect Cost Recovery Fund	$ 2,300	
Economic Recovery Reserve Fund	66,300	
Federal Grant Fund	14,800	
SUBTOTAL	$ 83,400	
III. ENERGY RESOURCES:		
FROM:		
Indirect Cost Recovery Fund	$ 1,700	
Economic Recovery Reserve Fund	1,200	
Miscellaneous Revenue Fund	4,000	
Petroleum Price Violation Fund	19,500	
Federal Grant Fund	17,400	
SUBTOTAL	$ 43,800	
IV. SNAKE RIVER BASIN ADJUDICATION:		
FROM:		
Economic Recovery Reserve Fund	$ 63,900	
V. WATER MANAGEMENT:		
FROM:		
Indirect Cost Recovery Fund	$ 1,700	
Economic Recovery Reserve Fund	85,200	

			TOTAL
Water Administration Fund		30,500	
Miscellaneous Revenue Fund		20,600	
Federal Grant Fund		8,500	
SUBTOTAL	$	146,500	
TOTAL			$ 379,100
(39) DEPARTMENT OF AGRICULTURE			
I. ADMINISTRATION:			
FROM:			
Administration and Accounting Services Fund	$	21,900	
Facilities Maintenance Fund		3,400	
Economic Recovery Reserve Fund		16,300	
SUBTOTAL	$	41,600	
II. ANIMAL INDUSTRIES:			
FROM:			
Economic Recovery Reserve Fund	$	43,300	
Agricultural Fees - Livestock Disease Control Fund		18,000	
Agricultural Fees - Dairy Inspection Fund		26,700	
Agricultural Fees - Egg Inspection Fund		2,800	
Federal Grant Fund		8,500	
SUBTOTAL	$	99,300	
III. AGRICULTURAL RESOURCES:			
FROM:			
Economic Recovery Reserve Fund	$	15,500	
Agricultural Smoke Management Fund		3,300	
Agricultural Fees - Pesticides Fund		43,100	
Federal Grant Fund		15,900	
SUBTOTAL	$	77,800	
IV. PLANT INDUSTRIES:			
FROM:			
Economic Recovery Reserve Fund	$	17,200	
Agricultural Inspection Fund		39,600	
Agricultural Fees - Commercial Feed and Fertilizer Fund		22,900	
Agricultural Fees - Organic Food Products Fund		3,300	
Federal Grant Fund		7,100	
SUBTOTAL	$	90,100	
V. AGRICULTURAL INSPECTIONS:			
FROM:			
Economic Recovery Reserve Fund	$	18,900	
Agricultural Inspection Fund		4,800	
Weights and Measures Inspection Fund		7,900	
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund		300,000	
SUBTOTAL	$	331,600	
VI. MARKETING AND DEVELOPMENT:			
FROM:			
Economic Recovery Reserve Fund	$	11,000	
Agricultural Inspection Fund		1,000	
Agricultural Loans Fund		500	
Federal Grant Fund		1,200	
SUBTOTAL	$	13,700	

		TOTAL
VII. SHEEP COMMISSION:		
FROM:		
Economic Recovery Reserve Fund	$ 1,700	
Agricultural Fees -		
Sheep Industry Regulation Fund	2,000	
SUBTOTAL	$ 3,700	
TOTAL		$ 657,800
(40) DEPARTMENT OF AGRICULTURE		
SOIL CONSERVATION COMMISSION:		
FROM:		
Economic Recovery Reserve Fund	$ 41,400	
Federal Grant Fund	6,500	
TOTAL		$ 47,900
(41) DEPARTMENT OF COMMERCE AND LABOR		
I. COMMERCE:		
FROM:		
Economic Recovery Reserve Fund	$ 72,400	
Tourism and Promotion Fund	18,700	
Miscellaneous Revenue Fund	4,300	
Federal Grant Fund	15,400	
SUBTOTAL	$ 110,800	
II. IDAHO RURAL PARTNERSHIP:		
FROM:		
Federal Grant Fund	$ 3,900	
III. WAGE AND HOUR:		
FROM:		
Economic Recovery Reserve Fund	$ 11,900	
TOTAL		$ 126,600
(42) DEPARTMENT OF FINANCE:		
FROM:		
State Regulatory Fund		$ 95,900
(43) INDUSTRIAL COMMISSION		
I. COMPENSATION:		
FROM:		
Industrial Administration Fund	$ 82,200	
Federal Grant Fund	100	
SUBTOTAL	$ 82,300	
II. REHABILITATION:		
FROM:		
Industrial Administration Fund	$ 89,400	
III. CRIME VICTIMS COMPENSATION:		
FROM:		
Crime Victims Compensation Fund	$ 16,200	
IV. ADJUDICATION:		
FROM:		
Industrial Administration Fund	$ 36,300	
TOTAL		$ 224,200
(44) DEPARTMENT OF INSURANCE		
I. INSURANCE REGULATION:		
FROM:		
Self-Governing Operating Fund	$ 111,200	
Miscellaneous Revenue Fund	2,700	
SUBTOTAL	$ 113,900	

		TOTAL
II. STATE FIRE MARSHAL:		
FROM:		
Self-Governing State Fire Marshal Fund	$ 21,900	
TOTAL		$ 135,800
(45) PUBLIC UTILITIES COMMISSION		
UTILITIES REGULATION:		
FROM:		
Public Utilities Commission Fund	$ 118,400	
Federal Grant Fund	1,600	
TOTAL		$ 120,000
(46) SELF-GOVERNING AGENCIES		
DIVISION OF BUILDING SAFETY		
BUILDING SAFETY:		
FROM:		
Electrical Fund	$ 108,100	
Building Fund	25,400	
Plumbing Fund	68,400	
Manufactured Housing Fund	2,100	
Public Works Contractors Licensing Fund	7,200	
Heating, Ventiliation, and Air Conditioning Board Fund	11,200	
Elevator Safety Fund	5,000	
Miscellaneous Revenue/Industrial Safety Fund	20,500	
Miscellaneous Revenue/Logging Fund	10,200	
Building Bureau NCSBCS Fund	400	
Miscellaneous Revenue/Energy Program Fund	3,800	
Federal Grant Fund	3,500	
TOTAL		$ 265,800
(47) SELF-GOVERNING AGENCIES		
GENERAL BOARDS		
COMMISSION ON HISPANIC AFFAIRS:		
FROM:		
Economic Recovery Reserve Fund	$ 2,900	
Federal Grant Fund	1,600	
TOTAL		$ 4,500
(48) SELF-GOVERNING AGENCIES		
STATE LOTTERY:		
FROM:		
State Lottery Fund		$ 85,900
(49) SELF-GOVERNING AGENCIES		
MEDICAL BOARDS		
I. BOARD OF DENTISTRY:		
FROM:		
State Regulatory Fund	$ 6,100	
II. BOARD OF MEDICINE:		
FROM:		
State Regulatory Fund	$ 20,200	
III. BOARD OF NURSING:		
FROM:		
State Regulatory Fund	$ 12,900	
IV. BOARD OF PHARMACY:		
FROM:		
State Regulatory Fund	$ 19,700	

		TOTAL
V. BOARD OF VETERINARY MEDICINE:		
FROM:		
State Regulatory Fund	$ 3,300	
TOTAL		$ 62,200
(50) SELF-GOVERNING AGENCIES		
REGULATORY BOARDS		
I. BOARD OF ACCOUNTANCY:		
FROM:		
State Regulatory Fund	$ 7,500	
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:		
FROM:		
State Regulatory Fund	$ 6,700	
III. BOARD OF PROFESSIONAL GEOLOGISTS:		
FROM:		
State Regulatory Fund	$ 1,000	
IV. BUREAU OF OCCUPATIONAL LICENSES:		
FROM:		
State Regulatory Fund	$ 30,000	
V. CERTIFIED SHORTHAND REPORTERS BOARD:		
FROM:		
State Regulatory Fund	$ 400	
VI. OUTFITTERS AND GUIDES LICENSING BOARD:		
FROM:		
State Regulatory Fund	$ 10,100	
VII. REAL ESTATE COMMISSION:		
FROM:		
State Regulatory Fund	$ 23,400	
TOTAL		$ 79,100
(51) SELF-GOVERNING AGENCIES		
OFFICE OF STATE APPELLATE PUBLIC DEFENDER:		
FROM:		
Economic Recovery Reserve Fund		$ 35,400
(52) SELF-GOVERNING AGENCIES		
DIVISION OF VETERANS SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 73,100	
Miscellaneous Revenue Fund	210,000	
Federal Grant Fund	134,200	
TOTAL		$ 417,300
(53) IDAHO TRANSPORTATION DEPARTMENT		
I. MANAGEMENT AND ADMINISTRATIVE SERVICES:		
FROM:		
State Highway Fund (Dedicated)	$ 421,900	
State Highway Fund (Billing)	700	
State Highway Fund (Federal)	8,300	
SUBTOTAL	$ 430,900	
II. PLANNING:		
FROM:		
State Highway Fund (Dedicated)	$ 19,600	
State Highway Fund (Federal)	78,500	
SUBTOTAL	$ 98,100	

		TOTAL
III. MOTOR VEHICLES:		
FROM:		
State Highway Fund (Dedicated)	$ 380,100	
IV. HIGHWAY OPERATIONS:		
FROM:		
State Highway Fund (Dedicated)	$ 2,183,400	
State Highway Fund (Local)	6,400	
State Highway Fund (Federal)	335,600	
SUBTOTAL	$ 2,525,400	
V. AERONAUTICS:		
FROM:		
State Aeronautics Fund (Dedicated)	$ 27,600	
State Aeronautics Fund (Billing)	2,600	
State Aeronautics Fund (Federal)	600	
SUBTOTAL	$ 30,800	
VI. PUBLIC TRANSPORTATION:		
FROM:		
State Highway Fund (Dedicated)	$ 5,200	
State Highway Fund (Federal)	12,500	
SUBTOTAL	$ 17,700	
TOTAL		$ 3,483,000
(54) DEPARTMENT OF ADMINISTRATION		
I. ADMINISTRATIVE RULES:		
FROM:		
Administrative Code Fund	$ 6,900	
II. DIRECTOR'S OFFICE:		
FROM:		
Indirect Cost Recovery Fund	$ 17,500	
Economic Recovery Reserve Fund	7,200	
Administration and Accounting Services Fund	900	
Industrial Special Indemnity Fund	5,900	
SUBTOTAL	$ 31,500	
III. INFORMATION TECHNOLOGY & COMMUNICATIONS:		
FROM:		
Indirect Cost Recovery Fund	$ 13,600	
Economic Recovery Reserve Fund	19,200	
Administration and Accounting Services Fund	55,300	
SUBTOTAL	$ 88,100	
IV. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:		
FROM:		
Economic Recovery Reserve Fund	$ 2,200	
Administration and Accounting Services Fund	10,600	
SUBTOTAL	$ 12,800	
V. OFFICE OF INSURANCE MANAGEMENT:		
FROM:		
Employee Group Insurance Fund	$ 9,000	
Retained Risk Fund	15,200	
SUBTOTAL	$ 24,200	
VI. PUBLIC WORKS:		
FROM:		
Permanent Building Fund	$ 48,500	
Administration and Accounting Services Fund	54,100	
SUBTOTAL	$ 102,600	

		TOTAL
VII. PURCHASING:		
FROM:		
Economic Recovery Reserve Fund	$ 25,000	
Administration and Accounting Services Fund	25,000	
Federal Surplus Property Revolving Fund	6,300	
SUBTOTAL	$ 56,300	
TOTAL		$ 322,400
(55) DEPARTMENT OF ADMINISTRATION		
CAPITOL COMMISSION:		
FROM:		
Capitol Endowment Income Fund		$ 1,200
(56) ATTORNEY GENERAL		
STATE LEGAL SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 472,300	
Consumer Protection Fund	2,600	
TOTAL		$ 474,900
(57) STATE CONTROLLER		
I. ADMINISTRATION:		
FROM:		
Economic Recovery Reserve Fund	$ 14,400	
II. STATEWIDE ACCOUNTING:		
FROM:		
Economic Recovery Reserve Fund	$ 50,000	
III. STATEWIDE PAYROLL:		
FROM:		
Economic Recovery Reserve Fund	$ 41,400	
IV. COMPUTER CENTER:		
FROM:		
Data Processing Services Fund	$ 128,300	
TOTAL		$ 234,100
(58) OFFICE OF THE GOVERNOR		
COMMISSION ON AGING:		
FROM:		
Economic Recovery Reserve Fund	$ 17,500	
Federal Grant Fund	15,000	
TOTAL		$ 32,500
(59) OFFICE OF THE GOVERNOR		
COMMISSION ON THE ARTS:		
FROM:		
Economic Recovery Reserve Fund	$ 10,600	
Federal Grant Fund	8,600	
TOTAL		$ 19,200
(60) OFFICE OF THE GOVERNOR		
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:		
FROM:		
Economic Recovery Reserve Fund	$ 22,200	
Federal Grant Fund	41,200	
TOTAL		$ 63,400

		TOTAL
(61) OFFICE OF THE GOVERNOR		
DIVISION OF FINANCIAL MANAGEMENT:		
FROM:		
Economic Recovery Reserve Fund	$ 65,100	
Miscellaneous Revenue Fund	800	
TOTAL		$ 65,900
(62) EXECUTIVE OFFICE OF THE GOVERNOR		
I. ADMINISTRATION - GOVERNOR'S OFFICE:		
FROM:		
Economic Recovery Reserve Fund	$ 39,800	
II. SOCIAL SERVICES:		
FROM:		
Federal Grant Fund	$ 5,500	
TOTAL		$ 45,300
(63) OFFICE OF THE GOVERNOR		
DIVISION OF HUMAN RESOURCES:		
FROM:		
Division of Human Resources Fund		$ 72,000
(64) OFFICE OF THE GOVERNOR		
HUMAN RIGHTS COMMISSION:		
FROM:		
Economic Recovery Reserve Fund	$ 17,200	
Federal Grant Fund	3,800	
TOTAL		$ 21,000
(65) OFFICE OF THE GOVERNOR		
STATE LIQUOR DISPENSARY		
DISPENSARY OPERATIONS:		
FROM:		
Liquor Control Fund		$ 252,800
(66) OFFICE OF THE GOVERNOR		
MILITARY DIVISION		
I. MILITARY MANAGEMENT:		
FROM:		
Indirect Cost Recovery Fund	$ 2,100	
Economic Recovery Reserve Fund	54,700	
SUBTOTAL	$ 56,800	
II. FEDERAL/STATE AGREEMENTS:		
FROM:		
Economic Recovery Reserve Fund	$ 24,200	
Federal Grant Fund	288,800	
SUBTOTAL	$ 313,000	
III. BUREAU OF HOMELAND SECURITY:		
FROM:		
Economic Recovery Reserve Fund	$ 39,300	
Federal Grant Fund	48,300	
SUBTOTAL	$ 87,600	
TOTAL		$ 457,400
(67) OFFICE OF THE GOVERNOR		
PUBLIC EMPLOYEE RETIREMENT SYSTEM		
I. RETIREMENT ADMINISTRATION:		
FROM:		
PERSI Administrative Fund	$ 97,200	

		TOTAL
II. PORTFOLIO INVESTMENT:		
FROM:		
PERSI Special Fund	$ 15,500	
TOTAL		$ 112,700
(68) OFFICE OF THE GOVERNOR		
OFFICE OF SPECIES CONSERVATION:		
FROM:		
Economic Recovery Reserve Fund	$ 15,400	
Miscellaneous Revenue Fund	800	
Federal Grant Fund	3,800	
TOTAL		$ 20,000
(69) OFFICE OF THE GOVERNOR		
WOMEN'S COMMISSION:		
FROM:		
Economic Recovery Reserve Fund		$ 1,000
(70) LEGISLATIVE COUNCIL		
LEGISLATIVE SERVICES OFFICE:		
FROM:		
Economic Recovery Reserve Fund	$ 117,400	
Professional Services Fund	36,300	
TOTAL		$ 153,700
(71) LEGISLATIVE COUNCIL:		
LEGISLATIVE TECHNOLOGY:		
FROM:		
Economic Recovery Reserve Fund		$ 4,500
(72) LEGISLATIVE COUNCIL:		
OFFICE OF PERFORMANCE EVALUATIONS:		
FROM:		
Economic Recovery Reserve Fund		$ 19,700
(73) LIEUTENANT GOVERNOR		
ADMINISTRATION - LIEUTENANT GOVERNOR:		
FROM:		
Economic Recovery Reserve Fund		$ 3,000
(74) DEPARTMENT OF REVENUE AND TAXATION		
BOARD OF TAX APPEALS:		
FROM:		
Economic Recovery Reserve Fund		$ 9,300
(75) DEPARTMENT OF REVENUE AND TAXATION		
STATE TAX COMMISSION		
I. GENERAL SERVICES:		
FROM:		
Economic Recovery Reserve Fund	$ 128,800	
Administration Services for Transportation Fund	13,800	
SUBTOTAL	$ 142,600	
II. AUDIT AND COLLECTIONS:		
FROM:		
Economic Recovery Reserve Fund	$ 318,000	
Multistate Tax Compact Fund	40,600	

		TOTAL
Administration Services for Transportation Fund	49,000	
Abandoned Property Trust - Unclaimed Property Fund	14,800	
SUBTOTAL	$ 422,400	
III. REVENUE OPERATIONS:		
FROM:		
Economic Recovery Reserve Fund	$ 89,900	
Administration and Accounting Fund	2,000	
Administration Services for Transportation Fund	15,700	
Abandoned Property Trust - Unclaimed Property Fund	2,300	
SUBTOTAL	$ 109,900	
IV. COUNTY SUPPORT:		
FROM:		
Economic Recovery Reserve Fund	$ 81,700	
TOTAL		$ 756,600
(76) SECRETARY OF STATE		
ADMINISTRATION:		
FROM:		
Economic Recovery Reserve Fund		$ 56,300
(77) STATE TREASURER		
TREASURY - ADMINISTRATION:		
FROM:		
Economic Recovery Reserve Fund	$ 31,800	
State Treasurer LGIP Fund	7,200	
Treasurer's Office - Professional Services Fund	6,800	
TOTAL		$ 45,800
GRAND TOTAL		$29,607,600

SECTION 2. RETURN UNUSED FUNDS TO THE ECONOMIC RECOVERY RESERVE FUND. The funding for the twenty-seventh payroll provides for the salaries and variable benefit costs, excluding employer health insurance costs, for state employees for one (1) two-week payroll period. The Office of the State Controller, the Division of Financial Management, and the Legislative Services Office shall identify a single payroll that matches the funding provided and develop instructions to ensure that all state agencies and institutions process a statewide payroll in a consistent manner. Any funding provided from the Economic Recovery Reserve Fund in excess of the amount necessary to process the twenty-seventh payroll shall be reverted to the Economic Recovery Reserve Fund within sixty (60) days of the completed transactions or by June 30, 2006, whichever occurs first.

Approved April 6, 2005.

CHAPTER 326
(S.B. No. 1160)

AN ACT

RELATING TO SCHOLARSHIPS AND THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-4302, IDAHO CODE, TO PROVIDE REFERENCE TO IRAQ AND AFGHANISTAN, TO PLACE A LIMIT ON THE LENGTH OF TIME EDUCATIONAL BENEFITS SHALL BE EXTENDED TO A QUALIFIED DEPENDENT, TO PROVIDE PROPER TERMINOLOGY, TO PROVIDE THAT APPLICATION FOR ELIGIBILITY 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, TO PROVIDE DUTIES OF THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF VOCATIONAL-TECHNICAL EDUCATION FOR VERIFYING AND COMMUNICATING ELIGIBILITY FINDINGS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID. (1) Any ~~child~~ dependent of any Idaho citizen who is a resident of the state of Idaho on or after the effective date of this act and who has been determined by the federal government to be a prisoner of war or missing in action or to have died of injuries or wounds sustained in action in southeast Asia, including Korea, or in Iraq or in Afghanistan or who shall become so hereafter, in any area of armed conflict in which the United States is a party, shall be admitted to attend any public institution of higher education or public professional-technical ~~school~~ college within the state of Idaho without the necessity of paying tuition and fees therefor; that such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed five hundred dollars ($500) per quarter, semester, intensified semester, or like educational period; that such student shall be furnished on-campus housing and subsistence for each month he is enrolled under this program and actually resides in such on-campus facility; provided, however, that such educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods~~;~~. Pprovided further, that such ~~child~~ educational benefits shall extend for a period of ten (10) years after achieving a high school diploma or its equivalency. or for a period of ten (10) years after the event giving rise to the eligibility for the scholarship, whichever is longer.

(2) The dependent shall meet such other educational qualifications as such institution of higher education or professional-technical ~~school~~ college has established for other prospective students of this state.

(3) Application for eligibility under this section shall be made to the state board of education and the board of regents of the university of Idaho or the state board of vocational-technical education. The board shall verify the eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.

(4) Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book,

equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

(5) Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.

Approved April 6, 2005.

CHAPTER 327
(S.B. No. 1197, As Amended)

AN ACT

RELATING TO OFFENDERS SUBJECT TO SAMPLE COLLECTION; AMENDING SECTION 19-5506, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PERSONS REQUIRED TO PROVIDE A DNA SAMPLE AND THUMBPRINT TO THE IDAHO STATE POLICE AND TO MAKE TECHNICAL CHANGES; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

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

SECTION 1. That Section 19-5506, Idaho Code, be, and the same is hereby amended to read as follows:

19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION -- EARLY COLLECTION OF SAMPLES -- RESTITUTION. (~~1~~a) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:

(~~a~~1) ~~Aggravated a~~Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);

(~~b~~2) Aggravated assault (section 18-905, Idaho Code);

(~~c~~3) Aggravated battery (section 18-907, Idaho Code);

(~~d~~4) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);

(~~e~~5) Battery with the intent to commit a serious felony (section 18-911, Idaho Code);

(6) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);

(7) Assault or battery upon certain personnel (section 18-915, Idaho Code);

(8) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);

(9) Propelling bodily fluid or waste (section 18-915B, Idaho Code);

(~~f~~10) Domestic violence (section 18-918, Idaho Code, constituting a felony);

(~~g~~11) Burglary (sections 18-1401 and 18-1405, Idaho Code), except those convictions in which the defendant entered a retail mercantile establishment and the offense took place when the victim was open to the public for business and the defendant committed a theft and his actions did not constitute grand theft as defined in chapter 24, title 18, Idaho Code;

(~~h~~12) Injury to a child (section 18-1501(1), Idaho Code);
(~~i~~13) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
(14) Ritualized abuse of a child (section 18-1506A, Idaho Code);
(~~j~~15) Possession of sexually exploitive material for other than a commercial purpose (section 18-1507A, Idaho Code);
(~~k~~16) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
(~~l~~17) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
(18) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
(19) Sale or barter of a child (section 18-1511, Idaho Code);
(20) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);
(21) False reports of explosives (section 18-3313, Idaho Code);
(22) Unlawful possession of a firearm (section 18-3316, Idaho Code);
(23) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
(24) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
(25) Use of weapons of mass destruction (section 18-3322, Idaho Code);
(~~m~~26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
(~~n~~27) Manslaughter (sections 18-4006(1) or (2) and 18-4007, Idaho Code);
(28) Administering poison with intent to kill (section 18-4014, Idaho Code);
(29) Assault with intent to murder (section 18-4015, Idaho Code);
(30) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
(~~o~~31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
(32) Forest sabotage (section 18-4631, Idaho Code);
(~~p~~33) Mayhem (sections 18-5001 and 18-5002, Idaho Code);
(34) Cannibalism (section 18-5003, Idaho Code);
(35) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
(36) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
(37) Inducing a minor into prostitution (section 18-5609, Idaho Code);
(~~q~~38) Rape (section 18-6101, Idaho Code);
(39) Male rape (sections 18-6108 and 18-6109, Idaho Code);
(40) Sexual contact with a prisoner (section 18-6110, Idaho Code);
(41) Video voyeurism (section 18-6609, Idaho Code);
(~~r~~42) Robbery (section 18-6501, Idaho Code);
(~~s~~43) Incest (section 18-6602, Idaho Code);
(~~t~~44) Crime against nature (section 18-6605, Idaho Code);
(~~u~~45) Forcible sexual penetration (section 18-6608, Idaho Code);
(46) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);
(47) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;

(48) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
(49) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
(50) Sabotage (section 18-7026, Idaho Code);
(51) Aircraft hijacking (section 18-7501, Idaho Code);
(52) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
(53) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
(~~v~~54) Racketeering (section 18-7804, Idaho Code);
(55) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
(56) Stalking in the first degree (section 18-7905, Idaho Code);
(57) Prohibited terrorist activities (section 18-8103, Idaho Code);
(58) Providing material support to terrorists (section 18-8106, Idaho Code);
(59) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);
(~~w~~60) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);
(~~x~~61) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).

(~~2~~b) In addition to those crimes enumerated in subsection (~~1~~a) of this section, any person, including any juvenile tried as an adult, who is convicted for an attempt to commit any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:

(~~a~~1) ~~Aggravated--a~~Arson (sections 18-802 through 18-805, Idaho Code);
(2) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);
(3) Assault or battery upon certain personnel (section 18-915, Idaho Code);
(4) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);
(5) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
(~~b~~6) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
(7) Ritualized abuse of a child (section 18-1506A, Idaho Code);
(~~c~~8) Injury to a child (section 18-1501(1), Idaho Code);
(~~d~~9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
(~~e~~10) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
(11) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
(12) Sale or barter of a child (section 18-1511, Idaho Code);
(13) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);
(14) False reports of explosives (section 18-3313, Idaho Code);

(15) Unlawful possession of a firearm (section 18-3316, Idaho Code);
(16) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
(17) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
(18) Use of weapons of mass destruction (section 18-3322, Idaho Code);
(f19) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
(20) Administering poison with intent to kill (section 18-4014, Idaho Code);
(21) Assault with intent to murder (section 18-4015, Idaho Code);
(22) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
(g23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
(24) Forest sabotage (section 18-4631, Idaho Code);
(h25) Mayhem (section 18-5001, Idaho Code);
(26) Cannibalism (section 18-5003, Idaho Code);
(27) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
(28) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
(29) Inducing a minor into prostitution (section 18-5609, Idaho Code);
(i30) Rape (section 18-6101, Idaho Code);
(31) Male rape (sections 18-6108 and 18-6109, Idaho Code);
(32) Sexual contact with a prisoner (section 18-6110, Idaho Code);
(33) Video voyeurism (section 18-6609, Idaho Code);
(j34) Robbery (section 18-6501, Idaho Code);
(k35) Incest (section 18-6602, Idaho Code);
(l36) Crime against nature (section 18-6605, Idaho Code);
(m37) Forcible sexual penetration (section 18-6608, Idaho Code);
(38) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);
(39) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;
(40) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
(41) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
(42) Sabotage (section 18-7026, Idaho Code);
(43) Aircraft hijacking (section 18-7501, Idaho Code);
(44) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
(45) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
(46) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
(47) Stalking in the first degree (section 18-7905, Idaho Code);
(48) Prohibited terrorist activities (section 18-8103, Idaho Code);
(49) Providing material support to terrorists (section 18-8106, Idaho Code);
(50) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);

(n51) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).

(3c) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons described above are mandatory and apply to those persons convicted of such crimes covered in this chapter prior to its effective date, and who, as a result of the offense, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

(4d) The collection of samples and impressions specified in this chapter are required regardless of whether the person previously has supplied a DNA sample to law enforcement agencies in any other jurisdiction.

(5e) The requirements of this chapter are mandatory and apply regardless of whether a court advises a person that samples and impressions must be provided to the databank and database as a condition of probation or parole.

(6f) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order any person subject to the provisions of this section to pay restitution to help offset costs incurred by law enforcement agencies for the expense of DNA analysis.

(7g) The court may order such person to pay restitution for DNA analysis in an amount not to exceed five hundred dollars ($500) per DNA sample analysis, or in the aggregate not more than two thousand dollars ($2,000), regardless of whether:

(a1) The source of the sample is the person, the victim or other persons of interest in the case;

(b2) Results of the analysis are entered into evidence in the person's criminal case;

(c3) The DNA sample was previously analyzed for another criminal case; or

(d4) Restitution for that DNA sample analysis was ordered in any other criminal case.

(8h) Law enforcement agencies entitled to restitution under this section include the Idaho state police, county and city law enforcement agencies, the office of the attorney general, county prosecuting attorneys and city attorneys.

(9i) In the case of reimbursement for DNA analysis performed by the Idaho state police, those moneys shall be paid to the Idaho state police and deposited in the law enforcement fund. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund.

(10j) Persons who have been sentenced to death, or life without the possibility of parole, or to any life or indeterminate term are not exempt from the requirements of this chapter.

SECTION 2. This act shall be in full force and effect on and after July 1, 2005, and shall apply only to persons who are convicted of or plead guilty to a crime covered by this act after July 1, 2005.

Approved April 6, 2005.

CHAPTER 328
(H.B. No. 392)

AN ACT

RELATING TO APPROPRIATIONS FOR STATEWIDE WATER ISSUES; TO PROVIDE LEGISLATIVE FINDINGS; AUTHORIZING THE WATER RESOURCE BOARD TO PURCHASE CERTAIN WATER RIGHTS AND LEASE A PORTION TO THE BUREAU OF RECLAMATION; APPROPRIATING AND TRANSFERRING GENERAL FUND MONEYS TO THE IDAHO WATER RESOURCE BOARD REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 2005; APPROPRIATING AND TRANSFERRING LIQUOR CONTROL FUND MONEYS TO THE IDAHO WATER RESOURCE BOARD REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 2005; APPROPRIATING AND TRANSFERRING GENERAL FUND MONEYS TO THE IDAHO WATER RESOURCE BOARD REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2006; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2006; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR SPECIFIED PROJECTS FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR A SPECIFIC PROJECT FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY FOR SECTIONS 1 THROUGH 4 OF THIS ACT.

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

SECTION 1. The Legislature finds that it is in the best interests of the state of Idaho to invest in short-term and long-term funding approaches to statewide water issues driven by drought, water supply and the basic demands of economic development. This investment across the state will contribute to the stability and economic well-being of all citizens of the state of Idaho.

SECTION 2. The Legislature hereby authorizes the Water Resource Board to proceed with the purchase of water rights owned by the Bell Rapids Mutual Irrigation Company as provided for in the letter of intent entered into between the board and the company on March 9, 2005, and hereby declares this acquisition of water rights to constitute a water project under the provisions of Chapter 17, Title 42, Idaho Code. The Legislature hereby further authorizes the Water Resource Board to lease 60,000 acre feet of water annually under the acquired water rights to the U.S. Bureau of Reclamation for a term of 30 years.

SECTION 3. There is hereby appropriated $21,300,000 from the General Fund for the period July 1, 2004 through June 30, 2005. The State Controller shall immediately transfer that amount to the Idaho Water Resource Board Revolving Development Fund established in Section 42-1752, Idaho Code. Such moneys shall be used by the Idaho Water Resource Board to purchase water rights. The amount transferred is a short-term loan with an annual interest rate of 3% and shall be repaid to the General Fund on or before July 1, 2006.

SECTION 4. Notwithstanding the provisions of Section 23-404, Idaho Code, there is hereby appropriated $7,200,000 from the Liquor Control Fund for the period July 1, 2004, through June 30, 2005. The State Controller shall immediately transfer that amount to the Idaho Water Resource Board Revolving Development Fund established in Section 42-1752, Idaho Code. Such moneys shall be used by the Idaho Water Resource Board for water projects and to lease water rights.

SECTION 5. There is hereby appropriated $3,000,000 from the General Fund for the period July 1, 2005, through June 30, 2006. The State Controller shall transfer that amount to the Idaho Water Resource Board Revolving Development Fund established in Section 42-1752, Idaho Code. Such moneys shall be used by the Idaho Water Resource Board for loans to ground water districts organized pursuant to Section 42-5202, Idaho Code, to implement the Conservation Reserve Enhancement Program.

SECTION 6. In addition to the appropriation provided in Section 1, Senate Bill No. 1214, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture the following amount, to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$205,200
Operating Expenditures	154,800
TOTAL	$360,000
FROM:	
General Fund	$360,000

SECTION 7. In addition to the positions authorized in Section 2, Senate Bill No. 1214, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby authorized three (3) full-time equivalent positions to the Soil Conservation Commission for the period July 1, 2005, through June 30, 2006.

SECTION 8. In addition to the appropriation provided in Section 1, Senate Bill No. 1195, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Department of Water Resources the following amount, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

PLANNING AND TECHNICAL SERVICES:

FOR:	
Personnel Costs	$ 82,400
Operating Expenditures	7,600
TOTAL	$ 90,000
FROM:	
General Fund	$ 90,000

WATER MANAGEMENT:	
FOR:	
Personnel Costs	$ 400,000
Operating Expenditures	800,000
TOTAL	$1,200,000
FROM:	
Water Administration Fund	$1,200,000

SECTION 9. In addition to the positions authorized in Section 2, Senate Bill No. 1195, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby authorized one (1) full-time equivalent position to the Department of Water Resources for the period July 1, 2005, through June 30, 2006.

SECTION 10. In addition to the appropriation provided in Section 1, Senate Bill No. 1195, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated $700,000 from the General Fund to the Department of Water Resources for the Planning and Technical Services Program to be expended for operating expenditures for the period July 1, 2005, through June 30, 2006. Such moneys are a one-time appropriation and shall be used for the Rathdrum Aquifer Collaborative Study, Rathdrum Aquifer Spring and Well Monitoring, and Palouse Basin Aquifer Projects or, to ensure the best use of the appropriated moneys, such projects agreed to by the Department of Water Resources and those local entities proposing the specified projects. The Legislature encourages the formation of water user entities to develop sources of revenue to pay for future projects.

SECTION 11. In addition to the appropriation provided in Section 1, Senate Bill No. 1211, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated $300,000 from the General Fund to the Department of Environmental Quality for the Water Quality Program to be expended for operating expenditures for the period July 1, 2005, through June 30, 2006. Such moneys are a one-time appropriation and shall be used for a study of water use and reuse in Northern Idaho or, to ensure the best use of the appropriated moneys, such projects agreed to by the Department of Environmental Quality and those local entities proposing the specified project. The Legislature encourages the formation of water user entities to develop sources of revenue to pay for future projects.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 4 of this act shall be in full force and effect on and after passage and approval.

Approved April 7, 2005.

CHAPTER 329
(S.B. No. 1158, As Amended, As Amended in the House)

AN ACT

RELATING TO NATUROPATHIC PHYSICIANS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 51, TITLE 54, IDAHO CODE, TO PROVIDE LEGISLATIVE PURPOSE AND INTENT, TO DEFINE TERMS, TO PROVIDE WHEN A LICENSE IS REQUIRED, TO PROVIDE FOR SCOPE OF PRACTICE, TO PROVIDE FOR PROHIBITIONS, TO PROVIDE FOR EXEMPTIONS, TO PROVIDE FOR DISCLOSURE BY THOSE PROVIDING NATURAL HEALTH CARE SERVICES, TO CREATE A BOARD OF NATUROPATHIC MEDICAL EXAMINERS, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO ESTABLISH A NATUROPATHIC MEDICAL FORMULARY COUNCIL, TO PROVIDE FEES, TO PROVIDE QUALIFICATION FOR LICENSURE, TO PROVIDE LICENSE STANDARDS FOR OTHER JURISDICTION'S APPLICANTS, TO PROVIDE FOR AN INVESTIGATION, TO PROVIDE FOR A HEARING, TO PROVIDE FOR SUBPOENAS, TO PROVIDE DISCIPLINARY ACTION, TO PROVIDE FOR A LICENSE DENIAL OR REVOCATION PROCEDURE, TO PROVIDE FOR ENFORCEMENT PENALTIES AND TO PROVIDE SEVERABILITY; TO PROVIDE LEGISLATIVE INTENT REGARDING ENFORCEMENT; AND AMENDING SECTIONS 67-2601 AND 67-2602, IDAHO CODE, TO PROVIDE REFERENCE TO THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 51, Title 54, Idaho Code, and to read as follows:

CHAPTER 51
NATUROPATHIC PHYSICIANS LICENSING ACT

54-5101. LEGISLATIVE PURPOSE AND INTENT. It is the intent of the Idaho legislature that nothing in this chapter will limit the decision in State v. Smith except to the extent that certain modalities of treatment shall require a license pursuant to this chapter. To that end it is not the intent of the legislature to regulate the practice of natural health care services as it is defined in this chapter, except as expressly provided herein.

54-5102. DEFINITIONS. As used in this chapter, the following terms have the meanings as stated:

(1) "Approved naturopathic medical program" means a doctoral level program of supervised resident study in naturopathic medicine approved by the board.

(2) "Board" means the board of naturopathic medical examiners created pursuant to section 54-5108, Idaho Code.

(3) "Minor office procedures" means the methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues.

(4) "Naturopathic medical formulary" means the list of prescription medicines which naturopathic physicians use in the practice of their profession, as determined by the formulary council and reviewed by the board.

(5) "Naturopathic medical formulary council" means that council comprised of members appointed pursuant to this chapter to determine and authorize the formulary list.

(6) "Naturopathic medicine" means a distinct and comprehensive system of primary health care practiced by naturopathic physicians. For the purpose of this chapter, naturopathic medicine does not include natural health care services as defined herein, however, nothing contained herein is intended to prohibit a naturopathic physician from providing natural health care services.

(7) "Naturopathic physician" and all titles defined in section 54-5103(2), Idaho Code, means a person authorized and licensed to practice naturopathic medicine under this chapter.

(8) "Natural health care services" means the broad domain of health care services and procedures, including diagnosis and treatment, where treatment or advice regarding the human body and its functions is administered by a person who:

(a) Does not use legend drugs or prescription drugs in such practice;

(b) Uses only natural elements including, without limitation, air, heat, water and light;

(c) Only uses class I or class II nonprescription, approved medical devices as defined in section 513 of the federal food, drug and cosmetic act;

(d) Only uses vitamins, minerals, herbs, natural food products and their extracts, nutritional supplements and homeopathic preparations and remedies not otherwise prohibited by law; and who

(e) Does not perform surgery.

54-5103. LICENSE REQUIRED. (1) No person shall hold himself or herself out to others as a naturopathic physician or practice naturopathic medicine as defined herein without first applying for and receiving a license. Persons who are not licensed pursuant to this chapter may provide natural health care services as defined herein pursuant to sections 54-5107 and 54-1804, Idaho Code.

(2) A person holds himself or herself out to others as a naturopathic physician when the person adopts or uses any or all of the following designations: "naturopathic physician," "physician of naturopathic medicine," "physician of natural medicine," "doctor of naturopathic medicine," or its abbreviation "N.M.D."

(3) The titles and terms in subsection (2) of this section identify naturopathic physicians and are restricted to describing and identifying licensed practitioners. Nothing herein contained shall prohibit or restrict the right to use or employ the titles "doctor of naturopathy," "naturopathic doctor," or the designation "N.D." by a person who has:

(a) Received a doctor of naturopathy degree from a school, college or institution that is licensed, or exempt from licensure as a religious school, college or institution, by the appropriate state educational licensing agency in which its principal operations or offices are located;

(b) Completed a doctoral level course of study that includes coursework and practical experience, which may include apprenticeship, of at least eight hundred (800) hours, upon completion of which a doctor of naturopathy degree is conferred;

(c) Practiced as a doctor of naturopathy for twenty (20) years prior to the effective date of this chapter;

(d) Practiced as a doctor of naturopathy for at least five (5) years and received a doctor of naturopathy degree prior to the effective date of this chapter; or

(e) Received a license pursuant to this chapter.

(4) No person who does not meet the criteria set forth in this section may use the titles and terms contained in subsection (3) of this section.

54-5104. SCOPE OF PRACTICE. (1) Diagnostic procedures. A naturopathic physician may use physical and laboratory examinations consistent with naturopathic medical education and training for diagnostic purposes. A naturopathic physician may order and perform diagnostic and imaging tests consistent with naturopathic medical education and training. All diagnostic and imaging tests not consistent with naturopathic medical education and training, must be referred for performance and interpretation by an appropriately licensed health care professional.

(2) Naturopathic physicians are authorized to dispense, administer and prescribe prescription drugs and medical devices determined by the naturopathic medical formulary council, and authorized by the board.

(3) A naturopathic physician may perform minor office procedures pursuant to privileges authorized by the board.

(4) A naturopathic physician may perform those therapies as trained and educated and authorized by the board.

54-5105. PROHIBITIONS. A naturopathic physician shall not:

(1) Prescribe, dispense or administer any controlled substance or device identified under the controlled substance act, chapter 27, title 37, Idaho Code, or identified in the federal controlled substance act, 21 U.S.C. sections 801 through 971 (1988), as amended, except as authorized by this chapter;

(2) Perform surgical procedures except those minor office procedures authorized by this chapter;

(3) Practice or claim to practice as a medical doctor, osteopath, dentist, podiatrist, optometrist, psychologist, advanced practice professional nurse, physician assistant, chiropractor, physical therapist, acupuncturist, or any other health care professional not authorized in this chapter unless licensed by the state of Idaho to do so;

(4) Use general or spinal anesthetics;

(5) Administer ionizing radioactive substances for therapeutic purposes;

(6) Perform surgical procedures using a laser device;

(7) Induce or perform an abortion;

(8) Perform surgical procedures involving the eye, ear, tendons, nerves, veins or arteries extending beyond superficial tissue;

(9) Treat any lesion suspicious of malignancy or requiring surgical removal. Lesions suspicious of malignancy or requiring surgical removal shall be referred to an appropriately licensed health care professional. Nothing in this chapter shall prohibit treatment of a person with suspicious or malignant lesions in conjunction with a physician licensed pursuant to chapter 18, title 54, Idaho Code.

(10) Perform chiropractic adjustments as defined in section 54-704, Idaho Code.

(11) Perform physical therapy as defined in section 54-2203, Idaho Code.

54-5106. EXEMPTIONS. This chapter is not intended to and does not prohibit, restrict or apply to:

(1) The practice of a profession by individuals who are licensed, certified or registered under other laws of this state and are performing services within the authorized scope of practice; or

(2) The practice of naturopathic medicine by an individual employed by the federal government while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States; or

(3) An individual rendering aid to a family member or in an emergency, when no fee or other consideration for the service is charged, received, expected or contemplated; or

(4) A person engaged in the sale of vitamins, health foods, over the counter homeopathic products, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited under state or federal law; or

(5) A person engaged in good faith for religious reasons as a matter of conscience; or

(6) The practice by a naturopathic physician duly licensed in another state, territory or the District of Columbia when that naturopathic physician is incidentally called into this state for consultation with a licensed physician; or

(7) The practice of naturopathic medicine by students enrolled in an approved naturopathic medical program. Services shall be performed pursuant to a course of instruction or assignments from an instructor and under the supervision and observation of the instructor; or

(8) Those who practice massage therapy; or

(9) The practice and providing of natural health care services as defined herein in compliance with sections 54-5107 and 54-1804, Idaho Code, by a person who is not licensed, certified or registered in this state as a health care professional or practitioner.

54-5107. DISCLOSURE BY THOSE PROVIDING NATURAL HEALTH CARE SERVICES. (1) Any person providing natural health care services who is not a naturopathic physician and who is advertising or charging a fee for those services, shall, prior to providing such services, disclose to the client in a clearly worded statement:

(a) The practitioner's name, business address and telephone number;

(b) The nature of the natural health care services to be provided;

(c) That the practitioner is not an "M.D.," "D.O." or "N.M.D."

(2) Before a practitioner provides natural health care services to a client for the first time, such practitioner must obtain a written acknowledgment from the client stating that he or she has been provided with the information described in this section and that he or she recognizes that the practitioner is not licensed to practice medicine, surgery or naturopathic medicine. The client shall be provided with a copy of this written acknowledgment which must be maintained for two (2) years by the person providing the services. If the disclosure information changes, then the practitioner has a duty to repeat the disclosure if a client obtains services after the change.

54-5108. BOARD OF NATUROPATHIC MEDICAL EXAMINERS. (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, the board of naturopathic medical examiners.

(2) The board shall consist of five (5) members, four (4) of whom shall be licensed pursuant to this chapter and one (1) of whom shall be a member of the public with an interest in the rights of consumers of naturopathic physician services.

(3) One (1) member of the initial board shall be appointed for a one (1) year term of office, one (1) member of the initial board shall be appointed for a two (2) year term of office, one (1) member of the initial board shall be appointed for a three (3) year term of office, one (1) member shall be appointed for a four (4) year term of office, and one (1) member of the initial board shall be appointed for a five (5) year term of office. Thereafter, the term of office for each member shall be five (5) years.

(4) Appointments to the board shall be made by the governor from nominations received from the Idaho association of naturopathic physicians, who shall nominate persons qualified for each position to be filled.

(5) The four (4) members of the board who are naturopathic physicians shall be licensed pursuant to this chapter, practicing within the state of Idaho for the duration of their appointment and shall have been practitioners within the state of Idaho for a minimum of two (2) years immediately preceding appointment.

(6) The initial four (4) licensed naturopathic physician members of the board shall be persons with at least two (2) years of experience in the practice of naturopathic medicine who are eligible to become licensed pursuant to this chapter. 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 governor may remove any member of the board for cause, prior to the expiration of the member's term.

(8) The board, within thirty (30) days after its appointment, and at least annually thereafter, shall hold a meeting and elect a chairman. The board may hold additional meetings on the call of the chair or at the written request of any two (2) members of the board. The board may appoint such committees as it considers necessary to carry out its duties. A majority of the board shall constitute a quorum.

54-5109. POWERS AND DUTIES OF THE BOARD. The board shall have the authority to:

(1) Determine the qualifications of persons applying for licensure pursuant to this chapter and define, by rule, the appropriate scope of naturopathic medicine in this state, provided however, that the scope of practice may not exceed that defined in section 54-5104, Idaho Code;

(2) Grant a special competency certificate for naturopathic childbirth attendance to those licensees who apply, provided that such applicant can document training and experience equal to or greater than that required by the rules of the Idaho board of nursing, pursuant to section 54-1404, Idaho Code. The applicant shall hold hospital privileges and perform such procedures under the supervision of a physician licensed pursuant to chapter 18, title 54, Idaho Code;

(3) Establish special competency certification requirements for

licensees as deemed necessary by action of the board;

(4) Adopt rules for the defined scope of practice for licensees;

(5) Hire and appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;

(6) Adopt such rules as are necessary for the administration of this chapter, including standards of professional conduct;

(7) Conduct investigations and examinations and hold hearings;

(8) Collect fees and other funds as prescribed by this chapter;

(9) Provide a uniform, independently proctored and psychometrically valid examination for use in licensing naturopathic physicians, which will adequately test the applicant's knowledge of naturopathic medicine, including the basic medical sciences and the diagnostic and therapeutic skill of license applicants.

(10) Provide such other services and perform such other functions as are necessary and desirable to fulfill its purposes;

(11) Establish by rule examination standards for licensure and when those examinations will be provided;

(12) Establish a minimum amount and kind of continuing education to be required annually for each naturopathic physician seeking licensure renewal.

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(27), Idaho

Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.

54-5111. FEES. (1) All fees received under the provisions of this chapter shall be paid to the department of self-governing agencies, bureau of occupational licenses, and deposited in the state treasury to the credit of the occupational licenses fund. All costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund. In no case shall any salary, expense or other obligation of the board be charged against the general fund.

(2) The fee for licensure shall not exceed five hundred dollars ($500).

54-5112. QUALIFICATIONS FOR LICENSURE. To be eligible for a license to practice as a naturopathic physician in the state of Idaho, the applicant shall:

(1) Provide proof, on a form provided by the board, of completion of an approved naturopathic medical program approved by the board;

(2) Have passed a competency-based examination approved by the board covering basic medical sciences and the diagnostic and clinical sciences consistent with the education, training and practice of naturopathic medicine. Such examination shall include, but not be limited to, exams in anatomy, biochemistry, microbiology, immunology, pathology, physiology, naturopathic philosophy and principles, physical and clinical diagnosis, lab diagnosis, diagnostic imaging, botanical medicine, naturopathic physical medicine, and nutrition;

(3) Applicants may be required to sit for a personal interview by the board to specifically review the applicant's qualifications, professional credentials, knowledge, and skills pertaining to the practice of naturopathic medicine;

(4) Possess a good, ethical and professional reputation;

(5) Be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation;

(6) Have never had a license to practice naturopathic medicine or other health care license, registration or certificate refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine, or other health care profession unless that license, registration or certification has been restored to good standing by that state or country;

(7) All licensed naturopathic physicians shall have on file with the board a board-approved disclosure form stating the degrees, training, experience, credentials and the health care services they are board approved to provide;

(8) File a board-approved application and pay the licensing fees.

54-5113. LICENSE STANDARDS FOR OTHER JURISDICTION APPLICANTS. The board shall establish by rule the standards for licensure of applicants licensed in another jurisdiction. However, the standards for endorsement of licensure shall not be less than those required for licensure in the state of Idaho.

54-5114. INVESTIGATION -- HEARING -- SUBPOENA. (1) The board shall be empowered to investigate, or cause to be investigated, all complaints

regarding any conduct prohibited by this chapter.

(2) The board may conduct hearings to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or to fulfill its responsibilities under this chapter as the board determines necessary.

(3) The board may subpoena witnesses, administer oaths in any hearing or disciplinary proceeding and compel, by subpoena duces tecum, the production of papers and records.

54-5115. DISCIPLINARY ACTION. The board may suspend, revoke or refuse to issue or renew a license on any of the following grounds:

(1) The employment of fraud or deceit in obtaining a license under this chapter or in connection with services rendered as a naturopathic physician;

(2) A legal finding of mental incompetence;

(3) Aiding or abetting a person, not duly licensed under this chapter, in claiming to be a naturopathic physician or in practicing naturopathic medicine;

(4) Any negligence, incompetence or misconduct in the performance of naturopathic medicine;

(5) Conviction of any crime involving moral turpitude or the entering of a plea of guilty or the finding of guilt by a jury or court of a commission of a felony or a crime involving moral turpitude;

(6) Practicing as a naturopathic physician when physical or mental abilities are impaired by the use of controlled substances or other drugs, chemicals or alcohol;

(7) Failure of the individual practitioner to maintain his or her professional premises in a clean and sanitary condition;

(8) Any other good cause, relevant to qualifications to practice as a naturopathic physician. The board may not suspend, revoke or refuse to issue or renew a license based on the findings that a licensee's practice is unconventional in the absence of demonstrable harm to a patient and the patient has signed a waiver to the effect that the treatment or device is considered unconventional.

54-5116. LICENSE DENIAL OR REVOCATION PROCEDURE. When the board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for a hearing shall be pursuant to the provisions of chapter 52, title 67, Idaho Code.

54-5117. ENFORCEMENT PENALTIES. (1) Every person who knowingly holds himself or herself out as a naturopathic physician or who practices naturopathic medicine as defined herein in this state without a license is guilty of a misdemeanor. A person convicted of a second or subsequent offense shall be guilty of a felony and shall be imprisoned in the state prison for a period not to exceed five (5) years, or shall be fined not more than ten thousand dollars ($10,000) or shall be punished by both such fine and imprisonment. Nothing herein contained shall regulate, restrict, or prohibit the practice of naturopathy or any naturopathic health care treatment, therapy, or modality, unregulated or permitted by law prior to July 1, 2005, except to the extent that such specific treatment, therapy, or modality, is enumerated herein and requires a license hereunder.

(2) Provided the board determines in good faith that a person is

holding himself or herself out as a naturopathic physician, practicing naturopathic medicine as defined herein or using a title or term set forth in section 54-5103(3), Idaho Code, in violation of this chapter, the board may seek an injunction, provided it has given thirty (30) days' prior written notice to cease and desist against any person who does not comply with such notice and who holds himself or herself out as a naturopathic physician, in violation of this chapter and may, in the event a permanent injunction is entered against such person be entitled to all costs and fees incurred by the board in seeking the injunction.

54-5118. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

SECTION 2. The Legislature recognizes that the enforcement and administration of Chapter 51, Title 54, Idaho Code, may in some instances involve more than one (1) regulatory board. The Legislature does not intend that there should be any inconsistency in the enforcement of the provisions of Chapter 51, Title 54, Idaho Code. Therefore, the Legislature intends that boards and regulatory bodies seeking to enforce any provision hereof shall coordinate with other affected boards to eliminate duplication of enforcement and inconsistency in rulemaking.

SECTION 3. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by

chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

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

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of

the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

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

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

SECTION 4. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of acupuncture, board of architectural examiners, board of barber examiners, board of chiropractic physicians, board of cosmetology, counselor licensing board, state board of denturitry, board of hearing aid dealers and fitters, board of landscape architects, board of morticians, board of naturopathic medical examiners, board of examiners of nursing home administrators, board of optometry, board of podiatrists, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of social work examiners, and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

(2) Notwithstanding the statutes governing specific boards, for any board that contracts with the bureau of occupational licenses, each board member shall hold office until a successor has been duly appointed and qualified.

(3) The department of self-governing agencies, by and through the bureau of occupational licenses, shall be empowered to provide administrative or other services for the administration of chapter 48, title 54, Idaho Code, to issue, suspend, revoke or refuse to renew certificates of registration, to issue subpoenas, to prescribe and impose fees and to assess administrative penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

Approved April 11, 2005.

CHAPTER 330
(S.B. No. 1238)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE INDIRECT SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 2006; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR THE INDIRECT SUPPORT SERVICES PROGRAM; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2006; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE PHYSICAL HEALTH SERVICES PROGRAM; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE MEDICAL ASSISTANCE SERVICES PROGRAM FOR FISCAL YEAR 2005; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND PROVIDING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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

SECTION 1. In addition to any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the Indirect Support Services Program the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$ 354,500
Operating Expenditures	681,500
TOTAL	$1,036,000
FROM:	
Cooperative Welfare Fund (Federal)	$1,036,000

SECTION 2. In addition to the authorization granted in Section 5, House Bill No. 384, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Department of Health and Welfare is authorized seven (7) full-time equivalent positions for the period July 1, 2005, through June 30, 2006.

SECTION 3. In addition to any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for public health services in the Physical Health Services Program the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$74,000
Operating Expenditures	4,000
TOTAL	$78,000
FROM:	
General Fund	$78,000

SECTION 4. In addition to the authorization granted in Section 2, House Bill No. 382, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Department of Health and Welfare is

authorized one (1) full-time equivalent position for the period July 1, 2005, through June 30, 2006.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 379, Laws of 2004, there is hereby appropriated to the Department of Health and Welfare for the Medical Assistance Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2004, through June 30, 2005:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Idaho Health Insurance Access Card Fund	$20,500	$ 5,600	$ 26,100
Cooperative Welfare Fund (Federal)	77,200	21,400	98,600
TOTAL	$97,700	$27,000	$124,700

SECTION 6. 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 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2005.

CHAPTER 331
(S.B. No. 1239)

AN ACT

RELATING TO CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT; AMENDING SECTION 42-1207, IDAHO CODE, TO PROVIDE THE TIME LIMIT WHEN RESTORATION SHALL BE COMPLETED AND TO ELIMINATE A REQUIREMENT TO RECORD LOCATIONS; AND AMENDING SECTION 18-4308, IDAHO CODE, TO PROVIDE THE TIME LIMIT WHEN RESTORATION SHALL BE COMPLETED AND TO ELIMINATE CRIMINAL PENALTIES FOR FAILURE TO RECORD LOCATIONS.

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

SECTION 1. That Section 42-1207, Idaho Code, be, and the same is hereby amended to read as follows:

42-1207. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ditch, canal, lateral or drain or buried irrigation conduit has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling said land shall have the right at their own expense to change said ditch, canal, lateral or drain or buried irrigation conduit

to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ditch, canal, lateral or drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the owner of the ditch, canal, lateral or drain, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the owner.

The written permission of the owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before it is changed or placed in buried pipe by the landowner.

While the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but ~~not to exceed five (5)~~ no longer than thirty (30) days after the ~~start~~ completion of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the conduit owner.

~~No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch, canal, lateral, or drain in pipe shall record the location and specifications of the buried irrigation or drainage conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation or drainage entity that owns the ditch, canal, lateral or drain, with a copy of such location and specifications and the construction plans utilized. The irrigation or drainage entity shall keep and maintain such records and have them available for the public.~~

SECTION 2. That Section 18-4308, Idaho Code, be, and the same is hereby amended to read as follows:

18-4308. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ditch, canal, lateral or drain has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said ditch, canal, lateral, drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ditch, canal, lateral, drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the owner of the ditch, canal, lateral or drain, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the owner.

The written permission of the owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before it is changed or placed in buried pipe by the landowner.

While the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but ~~not to exceed five (5)~~ no longer than thirty (30) days after the ~~start~~ completion of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the conduit owner.

~~No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch, canal, lateral or drain in pipe shall record the location and specifications of the buried irrigation or drainage conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation or drainage entity that owns the ditch, canal, lateral, or drain, with a copy of such location and specifications and the construction plans utilized. The irrigation or drainage entity shall keep and maintain such records and have them available for the public.~~

Any person or persons who relocate or bury a ditch, canal, lateral or drain contrary to the provisions of this section shall be guilty of a misdemeanor.

Approved April 11, 2005.

CHAPTER 332
(S.B. No. 1240)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE REQUIREMENTS GOVERNING DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES WHOSE JOB DUTIES ARE RELATED TO THE CHILD PROTECTIVE SERVICES SYSTEM.

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

SECTION 1. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

16-1623. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

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

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

(c) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 81, title 39, Idaho Code.

(d) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of eval-

uation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1611, Idaho Code.

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

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

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

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

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

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

child removed without first obtaining the approval of the court.

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing under section 16-1611, Idaho Code, the permanency plan and recommendations of the department. There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date the child entered shelter care, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interests of the child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.

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

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

Approved April 11, 2005.

CHAPTER 333
(H.B. No. 130, As Amended, As Amended in the Senate)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-335, IDAHO CODE, TO PROVIDE THAT ANY PERSON INVOLVED IN A MOTOR VEHICLE COLLISION WHICH IS INVESTIGATED BY A LAW ENFORCEMENT AGENCY, THAT PERSON'S AUTHORIZED LEGAL REPRESENTATIVE AND THE INSURER SHALL HAVE A RIGHT TO A COMPLETE, UNALTERED COPY OF THE IMPACT REPORT, OR ITS SUCCESSORS, AND THE FINAL REPORT PREPARED BY THE AGENCY.

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

SECTION 1. That Section 9-335, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Interfere with enforcement proceedings;

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

(c) Constitute an unwarranted invasion of personal privacy;

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

(e) Disclose investigative techniques and procedures; or

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

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

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

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

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

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

(d) The crime charged;

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

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

(g) Criminal history reports.

As used herein, the term "law enforcement agency" means the office of the attorney general, the office of the state controller, the Idaho state police, the office of any prosecuting attorney, sheriff or municipal police department.

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

If the court finds that the public official's decision to refuse disclosure is not justified, he shall order the public officials to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to

obey the order of the court shall be cited to show cause why he is not in contempt of court. The court may, in its discretion, award costs and fees to the prevailing party.

Approved April 11, 2005.

CHAPTER 334
(H.B. No. 145, As Amended, As Amended in the Senate)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3602, IDAHO CODE, TO DEFINE TERMS, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 39-3611, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE DEVELOPMENT AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOAD OR EQUIVALENT PROCESSES; AMENDING SECTION 39-3615, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO WATERSHED ADVISORY GROUPS AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 39-3616, IDAHO CODE, TO REVISE THE DUTIES OF WATERSHED ADVISORY GROUPS; DECLARING AN EMERGENCY AND PROVIDING FOR APPLICATION.

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

SECTION 1. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-3602. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Attainable" beneficial uses means uses that can be achieved by the implementation of required effluent limits for point sources and cost-effective and reasonable best management practices for nonpoint sources.

(3) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(~~3~~4) "Board" means the board of environmental quality.

(5) "Control strategies" means cost-effective actions in TMDL implementation plans to control the discharge of pollutants that can reasonably be taken to improve the water quality within the physical, operational, economic and other constraints that affect individual enterprises and communities.

(~~4~~6) "Department" means the department of environmental quality.

(~~5~~7) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; the soil conservation commission for grazing activities and for agricultural activities; the transportation department for

public road construction; the department of agriculture for aquaculture; and the department of environmental quality for all other activities.

(~~6~~8) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or not the uses are being attained. The department may adopt subcategories of a use.

(~~7~~9) "Director" means the director of the department of environmental quality, or his or her designee.

(~~8~~10) "Discharge" means any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For the purposes of this chapter, discharge shall not include surface water runoff from nonpoint sources or natural soil disturbing events.

(~~9~~11) "Existing use" means those surface water uses actually attained on or after November 28, 1975, whether or not they are designated uses. Existing uses may form the basis for subcategories of designated uses.

(~~10~~12) "Full protection, full support, or full maintenance of designated beneficial uses of water" means compliance with those levels of water quality criteria listed in the appropriate rules of the department, or where there is no applicable numerical criteria, compliance with the reference streams or conditions approved by the director in consultation with the appropriate basin advisory group.

(~~11~~13) "Lower water quality" means a measurable adverse change in a chemical, physical, or biological parameter of water relevant to a designated beneficial use, and which can be expressed numerically. Measurable adverse change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices.

(~~12~~14) "National pollutant discharge elimination system (NPDES)" means the point source permitting program established pursuant to section 402 of the federal clean water act.

(~~13~~15) "New nonpoint source activity" means a new nonpoint source activity or a substantially modified existing nonpoint source activity on or adversely affecting an outstanding resource water which includes, but is not limited to, new silvicultural activities, new mining activities and substantial modifications to an existing mining permit or approved plan, new recreational activities and substantial modifications to existing recreational activities, new residential or commercial development that includes soil disturbing activities, new grazing activities and substantial modifications to existing grazing activities, except that reissuance of existing grazing permits, or grazing activities and practices authorized under an existing permit, is not considered a new activity. It does not include naturally occurring events such as floods, landslides, and wildfire including prescribed natural fire.

(~~14~~16) "Nonpoint source activities" includes grazing, crop production, silviculture, log storage or rafting, construction, mining, recreation, septic systems, runoff from storms and other weather related events and other activities not subject to regulation under the federal national pollutant discharge elimination system. Nonpoint source activities on waters designated as outstanding resource waters do not include issuance of water rights permits or licenses, allocation of water

rights, operation of diversions, or impoundments.

(15~~7~~) "Nonpoint source runoff" means water which may carry pollutants from nonpoint source activities into the waters of the state.

(16~~8~~) "Outstanding resource water" means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. It constitutes an outstanding national or state resource that requires protection from point source and nonpoint source activities that may lower water quality.

(17~~9~~) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.

(~~18~~20) "Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

(~~19~~21) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged or released to water in excessive quantities cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

(20~~2~~) "Reference stream or condition" means one (1) of the following:

(a) The minimum biological, physical and chemical conditions necessary to fully support the designated beneficial uses; or

(b) A water body representing natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin; or

(c) A water body representing minimum conditions necessary to fully support the designated beneficial uses.

In highly mineralized areas or in the absence of such reference streams or water bodies, the director, in consultation with the basin advisory group and the technical advisers to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported.

(21~~3~~) "Short-term or temporary activity" means an activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the director. Short-term or temporary activities include, but are not limited to, maintenance of existing structures, limited road and trail reconstruction, soil stabilization measures, and habitat enhancement structures.

(22~~4~~) "Silviculture" means those activities associated with the regeneration, growing and harvesting of trees and timber including, but

not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber.

(~~23~~5) "Soil conservation commission" means an agency of state government as created in section 22-2718, Idaho Code.

(~~24~~6) "Soil conservation district" means an entity of state government as defined in section 22-2717, Idaho Code.

(~~25~~7) "State" means the state of Idaho.

(~~26~~8) "State water quality management plan" means the state management plan developed and updated by the department in accordance with sections 205, 208, and 303 of the federal clean water act.

(29) "Subbasin assessment" means a document that describes a watershed or watersheds for which a total maximum daily load is proposed, the water quality concerns, the status and attainability of designated uses and water quality criteria for individual water bodies, the nature and location of pollutant sources, past and ongoing pollutant control activities, and such other information that the director with the advice of the local watershed advisory group determines is pertinent to the analysis of water quality and the development and implementation of a total maximum daily load.

(~~27~~30) "Total maximum daily load (TMDL)" means a plan for a water body not fully supporting designated beneficial uses and includes the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, and natural background levels of the pollutant impacting the water body. Pollutant allocations established through TMDLs shall be at a level necessary to implement the applicable water quality standards for the identified pollutants with seasonal variations and a margin of safety to account for uncertainty concerning the relationship between the pollutant loading and water quality standards.

(~~28~~31) "Waters or water body" means all the accumulations of surface water, natural and artificial, public and private, or parts thereof which are wholly or partially within, flow through or border upon this state. For the purposes of this chapter, water bodies shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state.

(~~29~~32) "Water pollution" is such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(33) "Water quality standards" are the designated uses of a water body and water quality criteria necessary to support those uses, and an antidegradation policy.

(~~30~~4) "Watersheds" means the land area from which water flows into a stream or other body of water which drains the area. For the purposes

of this chapter, the area of watersheds shall be recommended by the basin advisory group described in section 39-3613, Idaho Code.

SECTION 2. That Section 39-3611, Idaho Code, be, and the same is hereby amended to read as follows:

39-3611. DEVELOPMENT AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOAD OR EQUIVALENT PROCESSES. (1) For water bodies described in section 39-3609, Idaho Code, the director shall, in accordance with the priorities set forth in section 39-3610, Idaho Code, and in accordance with sections 39-3614 ~~and~~ through 39-3616, Idaho Code, and as required by the federal clean water act, prepare a subbasin assessment and develop a total maximum daily load ~~to control~~ allocate pollutant loads to point source and nonpoint sources ~~of pollution on~~ that discharge pollutants to the water body.

(2) Upon the completion of a total maximum daily load, the director shall publish notice of the final decision on the TMDL in the Idaho administrative bulletin and provide written notice to members of the applicable watershed advisory group. The director's final decision shall be based upon a record that provides the basis for the total maximum daily load. The rulemaking provisions in sections 67-5220 through 67-5231, Idaho Code, shall not apply to TMDLs. The director's final decision regarding a TMDL may be appealed to the board of environmental quality in accordance with section 39-107(5), Idaho Code, and the rules governing such appeals. The time for appeal to the board shall commence upon publication in the administrative bulletin. The board's final decision is subject to judicial review under section 39-107(6), Idaho Code. The provisions of this subsection shall apply to all total maximum daily loads developed by the director after January 1, 1995. Provided however, that the rulemaking provisions in sections 67-5220 through 67-5231, Idaho Code, shall apply to TMDLs for metals in the Coeur d'Alene River Basin, upstream from the head of the Spokane River. Provided further, that nothing herein shall modify the requirement that water quality standards be promulgated as rules of the department pursuant to title 67, chapter 52, Idaho Code.

(3) For water bodies where an applicable water quality standard has not been attained due to impacts that occurred prior to 1972, no further restrictions under a total maximum daily load process shall be placed on a point source discharge unless the point source contribution of a pollutant exceeds twenty-five percent (25%) of the total load for that pollutant. Existing uses shall be maintained on all such water bodies.

(4) Subbasin assessments and t~~T~~otal maximum daily load processes developed pursuant to this section shall include, but not be limited to:

(a) Identification of pollutant(s) impacting the water body;

(b) An inventory of all point and nonpoint sources of the identified pollutant(s), if practical, or an analysis of the land types, land uses and geographical features within the watershed that may be contributing identified pollutants to the water body;

(c) An analysis of why current control strategies are not effective in assuring full support of designated beneficial uses;

(d) A plan to monitor and evaluate progress toward meeting water quality ~~progress--and--to ascertain when designated beneficial uses will be fully supported~~ standards;

(e) Pollution control strategies for both point sources and

nonpoint sources; ~~for reducing those sources of pollution;~~

(f) Identification of the period of time necessary to achieve full support of designated beneficial uses through implementation of pollution control strategies, which takes into account any expected changes to applicable water quality standards; and

(g) An adequate margin of safety to account for uncertainty.

(5) Point source discharges for which a national pollutant discharge elimination system permit is approved after January 1, 1995, shall be deemed to have met the requirements of this section.

(6) No instream target for a pollutant shall be set as part of a TMDL process unless the data and analysis in the subbasin assessment demonstrate that the pollutant is causing or contributing to a violation of a water quality standard in the stream for which the TMDL is being developed. If a pollutant load is allocated to a tributary inflow as part of a downstream TMDL, the director shall develop a plan to meet such allocation in consultation with the tributary watershed advisory group as provided in subsection (8) of this section.

(7) The director shall review and reevaluate each TMDL, supporting subbasin assessment, implementation plan(s) and all available data periodically at intervals of no greater than five (5) years. Such reviews shall include the assessments required by section 39-3607, Idaho Code, and an evaluation of the water quality criteria, instream targets, pollutant allocations, assumptions and analyses upon which the TMDL and subbasin assessment were based. If the members of the watershed advisory group, with the concurrence of the basin advisory group, advise the director that the water quality standards, the subbasin assessment, or the implementation plan(s) are not attainable or are inappropriate based upon supporting data, the director shall initiate the process or processes to determine whether to make recommended modifications. The director shall report to the legislature annually the results of such reviews.

(8) Each TMDL and any supporting subbasin assessment shall be developed and periodically reviewed and modified in consultation with the watershed advisory group for the watershed in which the water bodies are located. Consultation shall include, but not be limited to:

(a) Upon request, providing the watershed advisory group with all available information in the possession of the department concerning applicable water quality standards, water quality data, monitoring, assessments, reports, procedures and schedules for developing and submitting the TMDL and any supporting subbasin assessment to the United States environmental protection agency;

(b) Utilizing the knowledge, expertise, experience and information of the watershed advisory group in assessing the status, attainability or appropriateness of water quality standards, and in developing a TMDL and any supporting subbasin assessment; and

(c) Providing the watershed advisory group with an adequate opportunity to participate in drafting the documents for the TMDL and any supporting subbasin assessment and to suggest changes to the documents.

(9) No TMDL shall be published for public comment or submitted for approval to the United States environmental protection agency until consultation, as herein provided, has occurred. If, after consultation, the watershed advisory group disagrees with the TMDL or any supporting subbasin assessment, or has determined that applicable water quality

standards should be reevaluated or revised, such position and the basis therefor shall be documented in the public notice of availability to the TMDL and any supporting subbasin assessment for review, and in any submission of the same to the United States environmental protection agency. The director shall respond to the points raised by the watershed advisory group and shall document the response in the final decision.

(10) Nothing in this section shall be interpreted as requiring best management practices for agricultural nonpoint source activities which are not adopted on a voluntary basis, nor shall this section be interpreted to relieve any person from the responsibility to comply with the Idaho forest practices act.

SECTION 3. That Section 39-3615, Idaho Code, be, and the same is hereby amended to read as follows:

39-3615. CREATION OF WATERSHED ADVISORY GROUPS. Basin advisory groups shall identify representatives of the industries and other interests affected by the management of water quality within a watershed who are prospective members of an advisory group for the watershed and shall advise the director of their findings. The director, ~~with~~ upon the advice of the appropriate basin advisory group, ~~may~~ shall name watershed advisory groups which will generally advise the department on the appropriateness, attainability and status of existing and designated beneficial uses and water quality criteria within the watershed, and on the development and implementation of TMDLs and other state water quality plans, including those specific actions needed to control point and nonpoint sources of pollution within the watersheds of those water bodies where designated beneficial uses are not fully supported. Each watershed advisory group shall be formed early enough to complete consultation, as provided in section 39-3611(8), Idaho Code, prior to the date the TMDL and any supporting subbasin assessment is scheduled to be submitted to the United States environmental protection agency for approval.

If the members of the watershed advisory group, with the concurrence of the basin advisory group, advise the director that applicable water quality standards within the watershed are not attainable or are inappropriate based upon supporting data, the director shall initiate the process or processes to assess such standards and to change or remove the standards that are shown by the assessment to be unattainable or inappropriate, consistent with this chapter.

Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed~~;--along--with--representatives-of-local-government~~ and shall, where appropriate, include a representative from each of the following: agriculture, mining, point source dischargers, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, environmental interests and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it.

Members of each watershed advisory group shall serve and shall not be reimbursed for their expenses during their term of service.

SECTION 4. That Section 39-3616, Idaho Code, be, and the same is hereby amended to read as follows:

39-3616. DUTIES OF EACH WATERSHED ADVISORY GROUP. Each watershed advisory group shall generally be responsible for recommending those specific actions needed to control point and nonpoint sources of pollution within the watershed so that, within reasonable periods of time, designated beneficial uses are fully supported and other state water quality plans are achieved. Watershed advisory groups shall, as described in this chapter, consult with the director and participate in the development of each TMDL and any supporting subbasin assessment for water bodies within the watershed, and shall develop and recommend actions needed to effectively control sources of pollution. In carrying out the provisions of this section, the director and the watershed advisory groups shall employ all means of public involvement deemed necessary or required in chapter 52, title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies.

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, notwithstanding any other provision of law, shall apply to any subbasin assessment or total maximum daily load pending on the effective date of this act or initiated subsequent to the effective date of this act.

Approved April 11, 2005.

CHAPTER 335
(H.B. No. 150, As Amended in the Senate)

AN ACT
RELATING TO IDAHO GRAPE GROWERS AND WINE PRODUCERS; AMENDING SECTION 54-3610, IDAHO CODE, TO PROVIDE FOR TAXATION OF GRAPE JUICE PURCHASED FROM PRODUCERS OUTSIDE THE STATE.

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

SECTION 1. That Section 54-3610, Idaho Code, be, and the same is hereby amended to read as follows:

54-3610. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, there is hereby levied and imposed a tax payable to the commission on all grapes grown in Idaho, for the production of wine, and on grapes purchased outside the state for production of wine in Idaho. The commission shall set the tax by rule and the tax on each acre of grapes grown in Idaho shall not exceed twenty-five dollars ($25.00) per acre annually. The tax on each winery shall not exceed three hundred dollars ($300) annually. Grapes and grape juice purchased from producers outside Idaho shall be taxed in an amount not to exceed twenty-five dollars ($25.00) per ton or per one hundred sixty-seven (167) gallons or any portion thereof. The purchasers of such grapes grown or grape juice produced outside the state shall be responsible for submitting the tax to the commission.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in this section or by rule may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

Approved April 11, 2005.

CHAPTER 336
(H.B. No. 226)

AN ACT

RELATING TO THE DIVISION OF VETERANS SERVICES; AMENDING SECTION 66-1106, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF VETERANS SERVICES FUND AND TO DELETE THE VETERANS HOME FUND AS PART OF DISTRIBUTION OF MONEYS FROM THE CHARITABLE INSTITUTIONS FUND; AND AMENDING SECTION 66-1107, IDAHO CODE, TO PROVIDE THAT THE DIVISION OF VETERANS SERVICES RATHER THAN THE IDAHO STATE VETERANS HOMES SHALL BE A BENEFICIARY OF THE CHARITABLE INSTITUTIONS LAND GRANT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 66-1106, Idaho Code, be, and the same is hereby amended to read as follows:

66-1106. CHARITABLE INSTITUTIONS FUND -- TRANSFER OF MONEYS TO SEPARATE FUNDS. Any and all moneys hereafter accruing to said charitable institutions fund shall be forthwith transferred and credited to the following designated funds in the following proportions, respectively, to wit:

To the Idaho State University fund, four-fifteenths (4/15) thereof;

To the State Juvenile Corrections Institutions fund, four-fifteenths (4/15) thereof;

To the State Hospital North fund, four-fifteenths (4/15) thereof;

To the Division of Veterans ~~Home~~ Services fund, five-thirtieths (5/30) thereof;

To the School for the Deaf and Blind fund, one-thirtieth (1/30) thereof.

SECTION 2. That Section 66-1107, Idaho Code, be, and the same is hereby amended to read as follows:

66-1107. MONEYS CREDITED OR ACCRUING TO SPECIAL FUNDS -- EXCLUSIVE USE. All moneys heretofore properly credited to or accruing to any special fund heretofore created out of any portion of the expendable income from the land grant of one hundred ~~and~~ fifty thousand (150,000) acres aforesaid, for the support or maintenance of the Idaho State University, the State Juvenile Corrections Center, State Hospital North, ~~Idaho State~~

~~Veterans-Homes~~ Division of Veterans Services and the State School for the Deaf and the Blind, respectively, or any of such institutions, together with all funds hereafter accruing under this act to the funds designated in section 66-1106, Idaho Code, are hereby appropriated for the maintenance of said institutions, respectively, and no portion of said funds shall be diverted to any other purpose or transferred to any other fund: provided, that no provision hereof shall be so construed as to preclude the state controller from correcting errors in the apportionment of receipts or distribution of disbursements heretofore or hereafter erroneously credited or charged to any of such funds.

Approved April 11, 2005.

CHAPTER 337
(H.B. No. 227)

AN ACT

RELATING TO THE DIVISION OF VETERANS SERVICES; AMENDING SECTION 65-107, IDAHO CODE, TO DELETE LANGUAGE REGARDING BENEFITS PAID BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS FOR BURIAL AND PLOT ALLOWANCE FROM THE VETERANS CEMETERY MAINTENANCE FUND; AND AMENDING SECTION 65-202, IDAHO CODE, TO DELETE LANGUAGE REQUIRING THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES TO CAUSE BENEFITS FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS FOR BURIAL AND PLOT ALLOWANCE TO BE DEPOSITED IN THE VETERANS CEMETERY MAINTENANCE FUND.

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

SECTION 1. That Section 65-107, Idaho Code, be, and the same is hereby amended to read as follows:

65-107. VETERANS CEMETERY MAINTENANCE FUND. (1) There is hereby created in the state treasury a fund to be known as the "veterans cemetery maintenance fund" to which shall be deposited the revenues derived from the program fees for special veterans motor vehicle license plates as provided in section 49-418, Idaho Code, gifts, grants, contributions and bequests to the fund, revenues derived from the sale of state commemorative silver medallions as authorized in section 67-1223, Idaho Code, and any other moneys as may be provided by law. Interest earned on idle moneys in the veterans cemetery maintenance fund shall be paid to such fund.

(2) ~~Benefits--paid--by--the--United--States--department-of-veterans affairs-for-burial-and-plot-allowance-for-persons-interred-at-the--state veterans--cemetery--and--charges--related-to-interment,-disinterment-and reinterment-in-the-state-veterans-cemetery-shall--be--deposited--by--the administrator--of--the--division--of-veterans-services-as-authorized-and directed-in-section-65-202,-Idaho-Code.~~

~~(3)~~ Moneys in the fund shall be used exclusively for the purposes of operating, maintaining and acquiring services and personal property for a state veterans cemetery, and moneys shall be continuously appropriated for such purposes.

SECTION 2. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(3) Collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery. ~~and--the-administrator-is-hereby-directed-to cause-such-benefits-to-be-deposited-in-the-veterans-cemetery-maintenance fund-established-in-section-65-107,-Idaho-Code.~~

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

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

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

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

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

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

Approved April 11, 2005.

CHAPTER 338
(H.B. No. 281, As Amended in the Senate)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6537, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO THE USE OF SURFACE WATER FOR IRRIGATION.

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

SECTION 1. That Section 67-6537, Idaho Code, be, and the same is hereby amended to read as follows:

67-6537. ~~APPLICATION TO~~ USE OF SURFACE AND GROUND WATER. (1) The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:

(a) A surface water right is, or reasonably can be made, appurtenant to the land;

(b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or

(c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

(2) Consistent with sections 42-108 and 42-222, Idaho Code, any change in the nature of use of surface water provided by an irrigation delivery entity must be authorized by the entity holding the water right(s) for the available surface water. Nothing in this section shall alter the authority and discretion of irrigation delivery entities to apportion, allocate and distribute surface water, or for municipalities, counties, or water and sewer districts to pass ordinances or regulations to promote the use of surface water for irrigation.

(3) Nothing in this section shall be construed to override or amend any provision of title 42 or 43, Idaho Code, or impair any rights acquired thereunder.

(4) When considering amending, repealing or adopting a comprehensive plan, the local governing board shall consider the effect the proposed amendment, repeal or adoption of the comprehensive plan would have on the source, quantity and quality of ground water in the area.

Approved April 11, 2005.

CHAPTER 339
(H.B. No. 300)

AN ACT

RELATING TO STATE AGENCY STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT; REPEALING SECTIONS 67-1901 THROUGH 67-1903, IDAHO CODE, RELATING TO STATE PLANNING; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1901, TO SET FORTH PURPOSES; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1902, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1903, IDAHO CODE, TO PROVIDE FOR STRATEGIC PLANNING; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1904, IDAHO CODE, TO PROVIDE FOR PERFORMANCE MEASUREMENT; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1905, IDAHO CODE, TO PROVIDE FOR TRAINING; AND AMENDING SECTION 67-3507, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Sections 67-1901 through 67-1903, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 19, 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 67-1901, Idaho Code, and to read as follows:

67-1901. PURPOSES. The purposes of sections 67-1901 through 67-1905, Idaho Code, are to generate state agency planning and performance information that can be used to:

(1) Improve state agency accountability to state citizens and lawmakers;

(2) Increase the ability of the legislature to assess and oversee agency performance;

(3) Assist lawmakers with policy and budget decisions; and

(4) Increase the ability of state agencies to improve agency management and service delivery and assess program effectiveness.

SECTION 3. That Chapter 19, 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 67-1902, Idaho Code, and to read as follows:

67-1902. DEFINITIONS. For purposes of sections 67-1901 through 67-1905, Idaho Code:

(1) "Agency" means each department, board, commission, office and institution, educational or otherwise, except elective offices, in the executive department of state government. "Agency" does not include legislative and judicial branch entities.

(2) "Benchmark" or "performance target" means the agency's expected, planned or intended result for a particular performance measure. This information may come from an accepted industry standard for performance or from an agency's careful study, research and/or analysis of the circumstances impacting performance capabilities.

(3) "Core function" means a group of related activities serving a common end of meeting the main responsibilities of the agency.

(4) "Goal" means a planning element that describes the broad condition, state or outcome an agency or program is trying to achieve.

(5) "Major division" means an organizational group within the agency that focuses on meeting one (1) or more of the agency's primary statutory responsibilities.

(6) "Objective" means a planning element that describes a specific condition, state or outcome that an agency or program is trying to achieve as a step toward fulfilling its goals.

(7) "Performance measure" means a quantifiable indicator of an agency's progress toward achieving its goals.

SECTION 4. That Chapter 19, 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 67-1903, Idaho Code, and to read as follows:

67-1903. STRATEGIC PLANNING. (1) Each state agency shall develop and submit to the division of financial management a comprehensive strategic plan for the major divisions and core functions of that agency. The plan shall be based upon the agency's statutory authority and, at a minimum, shall contain:

(a) A comprehensive outcome-based vision or mission statement covering major divisions and core functions of the agency;

(b) Goals for the major divisions and core functions of the agency;

(c) Objectives and/or tasks that indicate how the goals are to be achieved;

(d) Performance measures, developed in accordance with section 67-1904, Idaho Code, that assess the progress of the agency in meeting its goals in the strategic plan, along with an indication of how the performance measures are related to the goals in the strategic plan;

(e) Benchmarks or performance targets for each performance measure for, at a minimum, the next fiscal year, along with an explanation of the manner in which the benchmark or target level was established; and

(f) An identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the strategic plan goals and objectives.

(2) The strategic plan shall cover a period of not less than four (4) years forward including the fiscal year in which it is submitted, and shall be updated annually.

(3) The strategic plan shall serve as the foundation for developing the annual performance information required by section 67-1904, Idaho Code.

(4) When developing a strategic plan, an agency shall consult with the appropriate members of the legislature, and shall solicit and consider the views and suggestions of those persons and entities potentially affected by the plan. Consultation with legislators may occur when meeting the requirement of section 67-1904(7), Idaho Code.

(5) Strategic plans are public records and are available to the public as provided in section 9-338, Idaho Code.

SECTION 5. That Chapter 19, 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 67-1904, Idaho Code, and to read as follows:

67-1904. PERFORMANCE MEASUREMENT. (1) Every fiscal year, as part of its budget request, each agency shall prepare an annual performance report. The report shall be comprised of two (2) parts:

(a) Part I shall contain basic profile information for the prior four (4) fiscal years including statutory authority, fiscal year revenue and expenditure information and any informative breakdowns such as amounts from different revenue sources, types of expenditures, and data about the number and types of cases managed and/or key services provided to meet agency goals.

(b) Part II shall contain:

(i) Not more than ten (10) key quantifiable performance measures, which clearly capture the agency's progress in meeting the goals of its major divisions and core functions stated in the strategic plan required in section 67-1903, Idaho Code. The goal(s) and strategies to which each measure corresponds shall also be provided. More measures may be requested by the germane committee chairs through the process set forth in subsection (7) of this section.

(ii) Results for each measure for the prior four (4) fiscal years. In situations where past data is not available because a new measure is being used, the report shall indicate the situation.

(iii) Benchmarks or performance targets for each measure for, at a minimum, the next fiscal year, and for each year of the four (4) years of reported actual results.

(iv) Explanations, where needed, which provide context important for understanding the measures and the results, and any other qualitative information useful for understanding agency performance.

(v) Attestation from the agency director that the data reported has been internally assessed for accuracy, and, to the best of the director's knowledge, is deemed to be accurate.

(2) Each agency performance report shall be presented in a consistent format, determined by the division of financial management, which allows for easy review and understanding of the information reported.

(3) Each agency shall review the results of the performance measures compared to benchmarks or performance targets and shall use the information for internal management purposes.

(4) Each agency shall maintain reports and documentation that support the data reported through the performance measures. This information shall be maintained and kept readily available for each of the four (4) years covered in the most recent performance report.

(5) The performance report shall be submitted by the agency to the division of financial management and the budget and policy analysis office of the office of legislative services by September 1 of each year. In fiscal year 2006, agencies shall submit part I of the performance report required by subsection (1)(a) of this section no later than November 1, and are exempt from submitting part II of the performance report required by subsection (1)(b) of this section. In accordance with section 67-3507, Idaho Code, agency performance reports shall be pub-

lished each year as part of the executive budget document.

(6) The office of budget and policy analysis of the office of legislative services may incorporate all or some of the information submitted under this section in its annual legislative budget book.

(7) Each agency shall orally present the information from the performance report to its corresponding senate and house of representatives germane committees each year unless a germane committee elects to have an agency present such information every other year. The presentations shall consist of a review of agency performance information and shall provide an opportunity for dialogue between the agency and the committees about the sufficiency and usefulness of the types of information reported. Following any discussion about the information reported, the germane committees, in accordance with the requirements of this section, may request any changes to be made to the types of information reported. In fiscal year 2006, each agency shall be required only to present part I of the performance report required in subsection (1)(a) of this section and, at a minimum, a progress report on the implementation of part II of the performance report as set forth in subsection (1)(b) of this section.

(8) If an agency and its corresponding germane committees determine that it is not feasible to develop a quantifiable measure for a particular goal or strategy, the germane committees may request an alternative form of measurement.

(9) The senate and the house of representatives germane committees should attempt to meet jointly to hear and discuss an agency's performance report and achieve consensus regarding the types of measures to be reported.

SECTION 6. That Chapter 19, 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 67-1905, Idaho Code, and to read as follows:

67-1905. TRAINING. Strategic planning and performance measurement training shall be held for both state agencies and lawmakers as follows:

(1) The division of financial management shall coordinate training for key agency personnel on the development, use and reporting of strategic planning and performance measurement information. The training shall be integrated into current agency training programs and shall be offered and required for agency staff at a frequency determined by the division of financial management.

(2) The office of performance evaluations and the office of budget and policy analysis of the office of legislative services shall coordinate training for legislators on the development and use of strategic planning and performance measurement information. The training shall be offered at least once every two (2) years to coincide with new legislative terms.

SECTION 7. That Section 67-3507, Idaho Code, be, and the same is hereby amended to read as follows:

67-3507. EXECUTIVE BUDGET. The executive budget document shall consist of the following three (3) parts:

(1) Part I of the executive budget document shall consist of a budget message by the governor which shall outline the financial plan of

the executive department of the state government for the next fiscal year, describing the important features of the financial plan.

(2) Part II of the budget document shall present in detail for the next fiscal year, as minimum information to be included in Part II, items showing: estimates of agency needs based on the governor's recommendations, to meet the expenditure needs of the state from all available funds classified by agencies and showing the cost of each major program. Part II shall also set forth the governor's recommendations for the capital program. All funds, including federal and local funds and interagency receipts received for any purpose, shall be accounted for in the budget.

(3) Part III of the budget document shall consist of the annual performance plans required in section 67-1903~~3~~4, Idaho Code.

Approved April 11, 2005.

CHAPTER 340
(H.B. No. 315, As Amended in the Senate)

AN ACT

RELATING TO SUPPORT PROGRAMS FOR EMPLOYEES OF SCHOOL DISTRICTS; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE ADDITIONAL AUTHORITY TO SCHOOL TRUSTEES TO PROVIDE SUPPORT FOR TEACHERS IN THEIR FIRST TWO YEARS IN THE PROFESSION; AND AMENDING SECTION 33-514, IDAHO CODE, TO DELETE THE REQUIREMENT THAT SCHOOL DISTRICTS PROVIDE SUPPORT PROGRAMS FOR CERTIFICATED EMPLOYEES DURING THEIR FIRST THREE YEARS WITH THE DISTRICT.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(i) of this section.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

2. To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

3. To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a textbook adoption committee as provided in section 33-512A, Idaho Code;

4. To protect the morals and health of the pupils;

5. To exclude from school, children not of school age;

6. To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

7. To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

8. To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

9. To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state

board of education may designate, following the proclamation by the governor, shall be school holidays;

10. To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

11. To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

12. To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

13. To govern the school district in compliance with state law and rules of the state board of education.

14. To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

15. To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section 33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check. Such employees shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an addi-

tional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous three (3) years. If the district next employing the substitute still elects to require another criminal history check within the three (3) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost.

16. Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

17. To ensure that each school district, including specially chartered school districts, participates in the Idaho student information management system (ISIMS) to the full extent of its availability. The terms "Idaho student information management system," "appropriate access" and "real time" shall have such meanings as the terms are defined in section 33-1001, Idaho Code.

18. To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

SECTION 2. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) ~~Each school district shall have a support program for certificated employees who are experiencing their first three (3) years with the district, under a category 1, 2 or 3 contract, providing support in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development. In developing support programs, nothing shall prevent districts from joining together to formulate a joint program applicable to each member district. Programs shall be submitted for approval to the state department of education in accordance with procedures established by the department. The state department of education is hereby authorized and directed to:~~

~~(a) Formulate basic guidelines which districts shall use as a model for developing district programs;~~

~~(b) Approve school district support programs; and~~

~~(c) Establish procedures for districts to submit programs for approval, to provide for periodic review of previously approved programs, and to allow districts to amend previously approved programs.~~

~~(3)~~ There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. ~~While employed under a category 2 contract, the employee shall be provided the services of the district support program referenced in subsection (2) of this section.~~ Upon the decision by a

local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(~~4~~3) School districts hiring an employee who has been on renewable contract status with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(~~5~~4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection (~~5~~4) shall not apply to employees on a category 1 contract.

Approved April 11, 2005.

CHAPTER 341
(H.B. No. 318)

AN ACT

RELATING TO THE MINE LICENSE TAX; AMENDING SECTION 47-1206, IDAHO CODE, TO PROVIDE FOR A LICENSE TAX ON CYANIDATION FACILITIES AND TO PROVIDE FOR DISTRIBUTION OF MONEYS COLLECTED; AMENDING SECTION 47-1513, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS, TO CREATE THE CYANIDATION FACILITY CLOSURE FUND, TO PROVIDE FOR WHAT THE MONEYS IN THE FUND MAY BE EXPENDED AND TO PROVIDE FOR UNENCUMBERED AND UNEXPENDED BALANCES IN THE SURFACE MINING RECLAMATION FUND AND THE CYANIDATION FACILITY CLOSURE FUND.

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

SECTION 1. That Section 47-1206, Idaho Code, be, and the same is hereby amended to read as follows:

47-1206. PAYMENT OF MINE LICENSE TAX. (1) Except as provided in subsection (2), t~~T~~he license tax imposed ~~herein~~ by this chapter shall be paid to the state tax commission on or before the due date of the return and the commission shall ~~receipt-therefor-and-promptly--turn--same--over~~ remit the sums to the state treasurer, ~~as-other-receipts-of-its-office, and-the-state-treasurer~~ who shall place sixty-six percent (66%) to the credit of the general fund of the state and thirty-four percent (34%) to the credit of the abandoned mine reclamation ~~account~~ fund created by the provisions of section 47-1703, Idaho Code.

(2) The license tax imposed by this chapter only on mining operations that include a cyanidation facility, as defined by section 47-1503, Idaho Code, shall be paid to the state tax commission on or before the due date of the return and the commission shall remit the sums to the state treasurer who shall place thirty-three percent (33%) to the credit of the general fund of the state, thirty-three percent (33%) to the credit of the cyanidation facility closure fund created by the provisions of section 47-1513, Idaho Code, and thirty-four percent (34%) to the credit of the abandoned mine reclamation fund created by the provisions of section 47-1703, Idaho Code.

SECTION 2. That Section 47-1513, Idaho Code, be, and the same is hereby amended to read as follows:

47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF BOND -- PENALTIES -- RECLAMATION FUND -- CYANIDATION CLOSURE FUND. (a) Whenever the board determines that an operator has not complied with the provisions of this ~~act~~ chapter, the board may notify the operator of such noncompliance, and may by private conference, conciliation, and persuasion, endeavor to remedy such violation. In the event of a violation referred to in subsections (d) and (e) of this section, the board may proceed without an administrative action, hearing or decision to exercise the remedies set forth in said subsections. Additionally, no administrative action, hearing or decision shall be required from the Idaho board of environmental quality prior to the board proceeding under subsections (d) and (e) of this section. In the event of the failure of any confer-

ence, conciliation and persuasion to remedy any alleged violation, the board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which shall specify the provisions of this act chapter which the operator allegedly is violating, and a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this act chapter. Such complaint may be served by certified mail, and return receipt signed by the operator, an officer of a corporate operator, or the designated agent of the operator shall constitute service. The operator shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the operator fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the operator, and the board may proceed to cancel the reclamation plan and forfeit the bond in the amount necessary to reclaim affected lands. Upon request for a hearing by an operator, the board shall schedule a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the operator requests a hearing. The board shall issue subpoenas at the request of the director of the department of lands and at the request of the charged operator, and the matter shall be otherwise handled and conducted in accordance with chapter 52, title 67, Idaho Code. The hearing officer shall, pursuant to said hearing, enter an order in accordance with chapter 52, title 67, Idaho Code, which, if adverse to the operator, shall designate a time period within which corrective action should be taken. The time period designated shall be long enough to allow the operator, in the exercise of reasonable diligence, to rectify any failure to comply designated in said order. In the event that the operator takes such action as is necessary to comply with the order within the time period designated in said order, no further action shall be taken by the board to compel performance under the act chapter.

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

(c) The forfeiture of such bond shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this act chapter. If the violation involves an operator that has not furnished a bond required by this act chapter, or an operator that is not required to furnish a bond pursuant to this act chapter, or an operator who violates this act chapter by performing an act not included in the original approved reclamation plan, and such departure from the plan is not subsequently approved, such operator shall be subject to a civil penalty for his failure to comply with such order in the amount determined by the board to be the anticipated cost of reasonable reclamation of affected lands.

(d) Notwithstanding any other provisions of this act chapter, the board may commence an action without bond or undertaking, in the name of the state of Idaho to enjoin any operator who is conducting operations without an approved reclamation plan required by section 47-1506, Idaho Code, or without the bond required by this act chapter. The court, or a judge thereof at chambers, if satisfied from the complaint or by affidavits that such acts have been or are being committed, shall issue a temporary restraining order without notice or bond, enjoining the defendant, his agents, and employees from conducting such operations without

said reclamation plan or bond. Upon a showing of good cause therefor, the temporary restraining order may require the defendant to perform reclamation of the mined area in conformity with sections 47-1509 and 47-1510, Idaho Code, pending final disposition of the action. The action shall then proceed as in other cases for injunctions. If it is established at trial that the defendant has operated without an approved reclamation plan or bond, the court shall enter, in addition to any other order, a decree enjoining the defendant, his agents and employees from thereafter conducting such activities or similar actions in violation of this ~~act~~ chapter. The board may, in conjunction with its injunctive procedures, proceed in the same or in a separate action to recover from an operator who is conducting surface mining or exploration operations without the required plan or bond, the cost of performing the reclamation activities required by sections 47-1509 and 47-1510, Idaho Code, from any such operator who has not filed a bond to cover the cost of the reclamation required.

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

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

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

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

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

(g) Any person who ~~wilfully~~ willfully and knowingly falsifies any

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

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

Approved April 11, 2005.

CHAPTER 342
(H.B. No. 354)

AN ACT

RELATING TO THE CHILDREN'S TRUST FUND; AMENDING SECTION 39-6007, IDAHO CODE, TO CLARIFY THAT THE CHECK-OFF EXPIRES WHEN THE BALANCE IN THE TRUST FUND REACHES TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

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

SECTION 1. That Section 39-6007, Idaho Code, be, and the same is hereby amended to read as follows:

39-6007. CHILDREN'S TRUST FUND -- CREATION. (1) There is hereby created in the state treasury the children's trust fund.

(2) The fund shall consist of:

(a) Moneys appropriated to the fund;

(b) Moneys as provided in section 63-3067A, Idaho Code;

(c) Donations, gifts and grants from any source; and

(d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the fund may be expended for purposes provided in this chapter, provided that the children's trust fund advisory board is authorized to expend up to fifty percent (50%) of the moneys generated annually pursuant to section 63-3067A, Idaho Code. Interest earned on the investment of idle money in the children's trust fund shall be returned to the children's trust fund.

(4) Disbursements of moneys from the fund shall be on the authorization of the children's trust fund board or a duly authorized representative of the board.

(5) After ~~a total of~~ the balance in the children's trust fund has reached two million five hundred thousand dollars ($2,500,000), ~~has been distributed to the children's trust fund,~~ no further collections shall be received by the tax commission, and all references to the fund shall be deleted from income tax forms.

Approved April 11, 2005.

CHAPTER 343
(H.B. No. 361)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO BOND PAYMENTS; DIRECTING THE TRANSFER OF MONEYS ON OR AFTER JULY 1, 2005; AND DIRECTING THE TRANSFER OF MONEYS ON OR AFTER JANUARY 1, 2006.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 207,000	$ 61,400		$ 268,400
Industrial Special Indemnity Fund	174,900	107,700		282,600
Indirect Cost Recovery Fund	514,900	250,000		764,900
Administration and Accounting Services Fund	25,100			25,100
TOTAL	$ 921,900	$ 419,100		$ 1,341,000
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 557,900	$ 258,600		$ 816,500
Indirect Cost Recovery Fund	403,300	77,000		480,300
Administration and Accounting Services Fund	1,641,300	1,047,500	$ 198,800	2,887,600
TOTAL	$2,602,500	$ 1,383,100	$ 198,800	$ 4,184,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. PUBLIC WORKS:				
FROM:				
General Fund		$ 332,000		$ 332,000
Permanent Building Fund	$1,444,600	655,200		2,099,800
Administration and Accounting Services Fund	1,603,700	6,634,600		8,238,300
TOTAL	$3,048,300	$ 7,621,800		$10,670,100
IV. PURCHASING:				
FROM:				
General Fund	$ 796,500	$ 172,600		$ 969,100
Federal Surplus Property Revolving Fund	193,900	252,500	$ 18,400	464,800
Administration and Accounting Services Fund	768,500	1,154,100	49,500	1,972,100
TOTAL	$1,758,900	$ 1,579,200	$ 67,900	$ 3,406,000
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 207,100	$ 326,300		$ 533,400
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 62,500			$ 62,500
Administration and Accounting Services Fund	307,200	$ 321,600		628,800
TOTAL	$ 369,700	$ 321,600		$ 691,300
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 272,700	$ 442,600		$ 715,300
Retained Risk Fund	448,200	196,100		644,300
TOTAL	$ 720,900	$ 638,700		$ 1,359,600
VIII. BOND PAYMENT:				
FROM:				
General Fund		$ 3,446,400	$3,091,000	$ 6,537,400
Permanent Building Fund		4,442,600	4,406,800	8,849,400
Administration and Accounting Services Fund		422,200	233,000	655,200
TOTAL		$ 8,311,200	$7,730,800	$16,042,000
GRAND TOTAL	$9,629,300	$20,601,000	$7,997,500	$38,227,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-three and one-half (173.5) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that if the amount appropriated for bond payments exceeds the actual expenditures for bond payments, the balance should be reverted to the fund from which it came.

SECTION 4. The State Controller is hereby directed to transfer on July 1, 2005, or as soon thereafter as is practicable, $915,000 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services.

SECTION 5. The State Controller is hereby directed to transfer on January 1, 2006, or as soon thereafter as is practicable, $915,000 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services.

Approved April 11, 2005.

CHAPTER 344
(H.B. No. 365)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2006; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2006, OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 2005, pursuant to the provisions of subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 2006, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Fifty-eighth Idaho

Legislature shall continue in full force and effect in such approved or extended language until July 1, 2006, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Fifty-eighth Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2006, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. 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 11, 2005.

CHAPTER 345
(H.B. No. 380)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE COMMUNITY DEVELOPMENTAL DISABILITY SERVICES PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE COMMUNITY DEVELOPMENTAL DISABILITY SERVICES PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE IDAHO STATE SCHOOL AND HOSPITAL PROGRAM; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE IDAHO STATE SCHOOL AND HOSPITAL PROGRAM; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for services for the developmentally disabled in the Community Developmental Disability Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$4,634,600	$ 576,200	$1,507,300	$ 6,718,100
Cooperative Welfare Fund (Federal)	2,769,100	2,466,700	1,869,400	7,105,200
Cooperative Welfare Fund (Dedicated)	913,900	45,400	9,500	968,800
TOTAL	$8,317,600	$3,088,300	$3,386,200	$14,792,100

SECTION 2. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one hundred fifty-seven and forty-four hundredths (157.44) full-time equivalent positions for the Community Developmental Disability Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for services for the developmentally disabled in the Idaho State School and Hospital Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 4,005,200	$ 861,700	$108,100	$ 4,975,000
Medical Assistance Fund		3,500		3,500
Cooperative Welfare Fund (Federal)	13,180,700	2,046,800	211,700	15,439,200
Cooperative Welfare Fund (Dedicated)	667,500	122,400	10,200	800,100
TOTAL	$17,853,400	$3,034,400	$330,000	$21,217,800

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three hundred seventy-five and fifty-three hundredths (375.53) full-time equivalent positions for the Idaho State School and Hospital Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. 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 6. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for fiscal year 2005 for the Developmental Disability Services Program and the Idaho State School and Hospital for fiscal year 2005, to be used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare.

Approved April 11, 2005.

CHAPTER 346
(H.B. No. 381)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDEPENDENT COUNCILS FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE INDEPENDENT COUNCILS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Independent Councils the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
General Fund	$ 12,500			$ 12,500
Domestic Violence Project Fund	186,900	$ 233,400	$ 168,600	588,900
Cooperative Welfare Fund (Federal)	113,600	124,500	2,968,200	3,206,300
Cooperative Welfare Fund (Dedicated)		21,000		21,000
TOTAL	$313,000	$378,900	$3,136,800	$3,828,700
B. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
General Fund	$ 76,600	$ 500	$ 9,000	$ 86,100
Cooperative Welfare Fund (Federal)	294,100	194,500	31,600	520,200
Cooperative Welfare Fund (Dedicated)		15,000		15,000
TOTAL	$370,700	$210,000	$ 40,600	$ 621,300
C. COUNCIL ON THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	$116,600	$ 21,400		$ 138,000
Cooperative Welfare Fund (Federal)	29,500	86,000		115,500
Cooperative Welfare Fund (Dedicated)		7,500		7,500
TOTAL	$146,100	$114,900		$ 261,000
GRAND TOTAL	$829,800	$703,800	$3,177,400	$4,711,000

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for the Independent Councils for fiscal year 2005, to be

used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare.

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than twelve (12) full-time equivalent positions for the Independent Councils during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

Approved April 11, 2005.

CHAPTER 347
(H.B. No. 382)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE PHYSICAL HEALTH SERVICES PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE EMERGENCY MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE EMERGENCY MEDICAL SERVICES PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE LABORATORY SERVICES PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE LABORATORY SERVICES PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE SUBSTANCE ABUSE SERVICES PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE SUBSTANCE ABUSE SERVICES PROGRAM; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CYSTIC FIBROSIS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for public health services in the Physical Health Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$1,601,100	$ 2,175,700	$ 1,127,400	$ 4,904,200
Cancer Control Fund	50,100	93,200	258,400	401,700
Central Tumor Registry Fund			182,700	182,700
Food Safety Fund			638,000	638,000
Cooperative Welfare Fund (Federal)	4,787,500	8,698,300	38,635,700	52,121,500
Cooperative Welfare Fund (Dedicated)	1,133,700	881,400	7,019,000	9,034,100
TOTAL	$7,572,400	$11,848,600	$47,861,200	$67,282,200

SECTION 2. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one hundred thirty-two and thirty-three hundredths (132.33) full-time equivalent positions for the Physical Health Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for public health services in the Emergency Medical Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 192,700	$ 4,400	$ 63,100	$ 260,200
Emergency Medical Services Fund I & II	1,127,700	993,800	192,600	2,314,100
Emergency Medical Services Fund III			1,400,000	1,400,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Dedicated)	172,400	33,500	150,000	355,900
Cooperative Welfare Fund (Federal)	336,600	858,800	650,000	1,845,400
TOTAL	$1,829,400	$1,890,500	$2,455,700	$6,175,600

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than twenty-seven and seventy-six hundredths (27.76) full-time equivalent positions for the Emergency Medical Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. There is hereby appropriated to the Department of Health and Welfare for public health services in the Laboratory Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$1,289,000	$ 848,900	$2,137,900
Cooperative Welfare Fund (Dedicated)	425,800	199,300	625,100
Cooperative Welfare Fund (Federal)	600,100	1,693,400	2,293,500
TOTAL	$2,314,900	$2,741,600	$5,056,500

SECTION 6. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than forty-two and fifty-four hundredths (42.54) full-time equivalent positions for the Laboratory Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 7. There is hereby appropriated to the Department of Health and Welfare for public health services in the Substance Abuse Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. SUBSTANCE ABUSE SERVICES:				
FROM:				
General Fund	$ 64,500	$ 410,500	$ 2,676,600	$ 3,151,600
Prevention of Minors' Access to Tobacco Fund	24,700	46,800		71,500
Alcohol Intoxication Treatment Fund	228,200	520,400	829,800	1,578,400
Cooperative Welfare Fund (Dedicated)	38,400	638,300	526,000	1,202,700
Substance Abuse Treatment Fund			8,800	8,800
Cooperative Welfare Fund (Federal)	426,800	3,527,900	10,152,800	14,107,500
TOTAL	$782,600	$5,143,900	$14,194,000	$20,120,500

SECTION 8. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than twelve and sixty-four hundredths (12.64) full-time equivalent positions for the Substance Abuse Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 9. 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 10. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for fiscal year 2005 for the Physical Health Services, Emergency Medical Services, Laboratory Services, and the Substance Abuse Services Programs for fiscal year 2005, to be used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare.

SECTION 11. SERVICES FOR CYSTIC FIBROSIS. The Department of Health and Welfare shall enter into discussions with adult clientele receiving services for cystic fibrosis in accordance with Section 56-1019, Idaho

Code, to pursue opportunities for increased cost sharing by recipients. The department is also requested by the Legislature to work with the medical community to develop possible options for the continued sustainability of the program. The department shall report back to the germane committees with these results during the 2006 legislative session. In addition, those funds appropriated in Section 1 of this act for the continued treatment of persons with cystic fibrosis shall be used solely for that purpose.

Approved April 11, 2005.

CHAPTER 348
(H.B. No. 384)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services the following amounts to be expended for the designated program according to the designated expense classes from the various funds listed for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$11,306,700	$ 5,648,400	$16,955,100
Cooperative Welfare Fund (Federal)	7,696,900	7,090,000	14,786,900
Cooperative Welfare Fund (Dedicated)	171,000	358,300	529,300
TOTAL	$19,174,600	$13,096,700	$32,271,300

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for the Indirect Support Services Program for fiscal year 2005, to be used for nonrecurring expenditures only for the period July

1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2005, through June 30, 2006.

SECTION 5. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three hundred twenty and thirty-three hundredths (320.33) full-time equivalent positions for the Indirect Support Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

Approved April 11, 2005.

CHAPTER 349
(H.B. No. 389)

AN ACT

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

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill No. 360, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies, the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$116,000
Operating Expenditures	48,200
Capital Outlay	24,900
TOTAL	$189,100
FROM:	
Public Works Contractors Licensing Fund	$189,100

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, House Bill No. 360, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Division of Building Safety is hereby authorized an additional two (2) full-time equivalent positions for the period July 1, 2005, through June 30, 2006.

Approved April 11, 2005.

CHAPTER 350
(H.B. No. 390)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2006; AND AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to the appropriation made in Section 3, House Bill No. 359, as enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Department of Self-Governing Agencies for the Regulatory Boards the following amounts to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

I. BUREAU OF OCCUPATIONAL LICENSES:

FOR:	
Personnel Costs	$373,100
Operating Expenditures	350,300
Capital Outlay	55,000
TOTAL	$778,400
FROM:	
State Regulatory Fund	$778,400

SECTION 2. In addition to the full-time equivalent positions authorized in Section 4, House Bill No. 359, as enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Bureau of Occupational Licenses is hereby authorized an additional seven (7) full-time equivalent positions for the period July 1, 2005, through June 30, 2006.

Approved April 11, 2005.

CHAPTER 351
(H.B. No. 397)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 2006.

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

SECTION 1. In addition to the appropriation made in Section 1, Senate Bill No. 1185, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Office of the Governor for the Human Rights Commission the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$10,000
Operating Expenditures	10,000
TOTAL	$20,000
FROM:	
General Fund	$20,000

Approved April 11, 2005.

CHAPTER 352
(H.B. No. 402)

AN ACT

RELATING TO COMMERCIAL MOTOR VEHICLE DRIVING PRIVILEGES AND NONCOMMERCIAL MOTOR VEHICLE DRIVING PRIVILEGES; AMENDING SECTION 18-8002A, IDAHO CODE, TO CLARIFY THAT RESTRICTED DRIVING PRIVILEGES APPLY ONLY TO OPERATION OF NONCOMMERCIAL VEHICLES, TO CLARIFY THAT WORK PURPOSES SHALL NOT INVOLVE OPERATION OF A COMMERCIAL VEHICLE AND TO PROVIDE THAT RESTRICTED DRIVING PRIVILEGES SHALL NOT APPLY TO OPERATION OF A COMMERCIAL VEHICLE; AMENDING SECTION 18-8004A, IDAHO CODE, TO PROVIDE THAT RESTRICTED DRIVING PRIVILEGES SHALL NOT BE GRANTED TO OPERATE A COMMERCIAL MOTOR VEHICLE DURING THE PERIOD OF SUSPENSION, REVOCATION, CANCELLATION OR DISQUALIFICATION; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE THAT ANY PERSON WHOSE DRIVING PRIVILEGES HAVE BEEN SUSPENDED, REVOKED OR CANCELED SHALL NOT BE GRANTED RESTRICTED DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-105, IDAHO CODE, TO PROVIDE FOR A SCHOOL BUS ENDORSEMENT ON A DRIVER'S LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-306, IDAHO CODE, TO REQUIRE THAT EVERY APPLICATION FOR A CLASS A, B OR C DRIVER'S LICENSE SHALL STATE WHERE THE APPLICANT HAS BEEN LICENSED FOR THE PRECEDING TEN YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-313, IDAHO CODE, TO REQUIRE AN APPLICANT FOR A SCHOOL BUS ENDORSEMENT TO PASS APPROPRIATE KNOWLEDGE AND SKILLS TESTS AND TO AUTHORIZE THE DEPARTMENT UNTIL A TIME CERTAIN TO WAIVE THE SKILLS TEST REQUIREMENT UNDER CERTAIN CONDITIONS; AMENDING SECTION 49-325, IDAHO CODE, TO CLARIFY THAT A TEMPORARY RESTRICTED PERMIT MAY BE ISSUED TO GRANT NONCOMMERCIAL DRIVING PRIVILEGES BUT SHALL NOT GRANT DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE THAT A TEMPORARY RESTRICTED PERMIT MAY BE ISSUED TO GRANT NONCOMMERCIAL DRIVING PRIVILEGES BUT SHALL NOT GRANT DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-335, IDAHO CODE, TO CLARIFY THE CONDITIONS FOR WHICH THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE MAY BE DISQUALIFIED AND TO PROVIDE ADDITIONAL CONDITIONS FOR DISQUALIFICATION IN ACCORDANCE WITH FEDERAL REGULATIONS.

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

SECTION 1. That Section 18-8002A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF TESTS. (1) Definitions. As used in this section:

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

(b) "Administrative hearing" means a hearing conducted by a hearing officer to determine whether a suspension imposed by the provisions of this section should be vacated or sustained.

(c) "Department" means the Idaho transportation department and, as the context requires, shall be construed to include any agent of the department designated by rule as hereinafter provided.

(d) "Director" means the director of the Idaho transportation department.

(e) "Evidentiary testing" means a procedure or test or series of procedures or tests utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person, including additional testing authorized by subsection (6) of this section. An evidentiary test for alcohol concentration shall be based on a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath, or sixty-seven (67) milliliters of urine. Analysis of blood, breath or urine for the purpose of determining alcohol concentration shall be performed by a laboratory operated by the Idaho state police or by a laboratory approved by the Idaho state police under the provisions of approval and certification standards to be set by the Idaho state police, or by any other method approved by the Idaho state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated and approved by the Idaho state police or by any other method approved by the Idaho state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(f) "Hearing officer" means a person designated by the department to conduct administrative hearings. The hearing officer shall have authority to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing and make a final ruling on the issues before him.

(g) "Hearing request" means a request for an administrative hearing on the suspension imposed by the provisions of this section.

(2) Information to be given. At the time of evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if the person refuses to submit to or fails to complete evidentiary testing, or if the person submits to and completes evidentiary testing and the test results indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the person shall be informed substantially as follows (but need not be informed verbatim):

If you refuse to submit to or if you fail to complete and pass evidentiary testing for alcohol or other intoxicating substances:

(a) The peace officer will seize your driver's license and issue a notice of suspension and a temporary driving permit to you, but no peace officer will issue you a temporary driving permit if your driver's license or permit has already been and is suspended or revoked. No peace officer shall issue a temporary driving permit to a driver of a commercial vehicle who refuses to submit to or fails to complete and pass an evidentiary test;

(b) You have the right to request a hearing within seven (7) days of the notice of suspension of your driver's license to show cause why you refused to submit to or to complete and pass evidentiary testing and why your driver's license should not be suspended;

(c) If you refused or failed to complete evidentiary testing and do not request a hearing before the court or do not prevail at the hearing, your driver's license will be suspended. The suspension will be for one hundred eighty (180) days if this is your first refusal. The suspension will be for one (1) year if this is your second refusal within five (5) years. You will not be able to obtain a temporary restricted license during that period; and

(d) If you complete evidentiary testing and fail the testing and do not request a hearing before the department or do not prevail at the hearing, your driver's license will be suspended. This suspension will be for ninety (90) days if this is your first failure of evidentiary testing, but you may request restricted noncommercial vehicle driving privileges after the first thirty (30) days. The suspension will be for one (1) year if this is your second failure of evidentiary testing within five (5) years. You will not be able to obtain a temporary restricted license during that period;

(e) After submitting to evidentiary testing you may, when practicable, at your own expense, have additional tests made by a person of your own choosing.

(3) Rulemaking authority of the Idaho state police. The Idaho state police may, pursuant to chapter 52, title 67, Idaho Code, prescribe by rule:

(a) What testing is required to complete evidentiary testing under this section; and

(b) What calibration or checking of testing equipment must be performed to comply with the department's requirements. Any rules of the Idaho state police shall be in accordance with the following: a test for alcohol concentration in breath as defined in section 18-8004, Idaho Code, and subsection (1)(e) of this section will be valid for the purposes of this section if the breath alcohol testing instrument was approved for testing by the Idaho state police in accordance with section 18-8004, Idaho Code, at any time within ninety (90) days before the evidentiary testing. A test for alcohol concentration in blood or urine as defined in section 18-8004, Idaho Code, that is reported by the Idaho state police or by any laboratory approved by the Idaho state police to perform this test will be valid for the purposes of this section.

(4) Suspension.

(a) Upon receipt of the sworn statement of a peace officer that there existed legal cause to believe a person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances and that the person submitted to a test and the test results indicated

an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the department shall suspend the person's driver's license, driver's permit, driving privileges or nonresident driving privileges:

(i) For a period of ninety (90) days for a first failure of evidentiary testing under the provisions of this section. The first thirty (30) days of the suspension shall be absolute and the person shall have absolutely no driving privileges of any kind. Restricted noncommercial vehicle driving privileges applicable during the remaining sixty (60) days of the suspension may be requested as provided in subsection (9) of this section.

(ii) For a period of one (1) year for a second and any subsequent failure of evidentiary testing under the provisions of this section within the immediately preceding five (5) years. No driving privileges of any kind shall be granted during the suspension imposed pursuant to this subsection.

The person may request an administrative hearing on the suspension as provided in subsection (7) of this section. Any right to contest the suspension shall be waived if a hearing is not requested as therein provided.

(b) The suspension shall become effective thirty (30) days after service upon the person of the notice of suspension. The notice shall be in a form provided by the department and shall state:

(i) The reason and statutory grounds for the suspension;

(ii) The effective date of the suspension;

(iii) The suspension periods to which the person may be subject as provided in subsection (4)(a) of this section;

(iv) The procedures for obtaining restricted noncommercial vehicle driving privileges;

(v) The rights of the person to request an administrative hearing on the suspension and that if an administrative hearing is not requested within seven (7) days of service of the notice of suspension the right to contest the suspension shall be waived;

(vi) The procedures for obtaining an administrative hearing on the suspension;

(vii) The right to judicial review of the hearing officer's decision on the suspension and the procedures for seeking such review.

(5) Service of suspension by peace officer or the department. If the driver submits to evidentiary testing after the information in subsection (2) of this section has been provided and the results of the test indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code:

(a) The peace officer shall take possession of the person's driver's license, shall issue a temporary permit which shall be valid for a period not to exceed thirty (30) days from the date of issuance, and, acting on behalf of the department, will serve the person with a notice of suspension in the form and containing the information required under subsection (4) of this section. The department may serve the person with a notice of suspension if the peace offi-

cer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(b) Within five (5) business days following service of a notice of suspension the peace officer shall forward to the department a copy of the completed notice of suspension form upon which the date of service upon the driver shall be clearly indicated, a copy of any completed temporary permit form along with any confiscated driver's license, a certified copy or duplicate original of the results of all tests for alcohol concentration, as shown by analysis of breath administered at the direction of the peace officer, and a sworn statement of the officer, which may incorporate any arrest or incident reports relevant to the arrest and evidentiary testing setting forth:

(i) The identity of the person;

(ii) Stating the officer's legal cause to stop the person;

(iii) Stating the officer's legal cause to believe that the person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code;

(iv) That the person was advised of the consequences of taking and failing the evidentiary test as provided in subsection (2) of this section;

(v) That the person was lawfully arrested;

(vi) That the person was tested for alcohol concentration, drugs or other intoxicating substances as provided in this chapter, and that the results of the test indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code.

If an evidentiary test of blood or urine was administered rather than a breath test, the peace officer or the department shall serve the notice of suspension once the results are received. The sworn statement required in this subsection shall be made on forms in accordance with rules adopted by the department.

(c) The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(6) Additional tests. After submitting to evidentiary testing at the request of the peace officer, the person may, when practicable, at his own expense, have additional tests for alcohol concentration or for the presence of drugs or other intoxicating substances made by a person of his own choosing. The person's failure or inability to obtain additional tests shall not preclude admission of the results of evidentiary tests administered at the direction of the peace officer unless additional testing was denied by the peace officer.

(7) Administrative hearing on suspension. A person who has been served with a notice of suspension after submitting to an evidentiary test may request an administrative hearing on the suspension before a hearing officer designated by the department. The request for hearing shall be in writing and must be received by the department within seven (7) calendar days of the date of service upon the person of the notice

of suspension, and shall include what issue or issues shall be raised at the hearing. The date on which the hearing request was received shall be noted on the face of the request.

If a hearing is requested, the hearing shall be held within twenty (20) days of the date the hearing request was received by the department unless this period is, for good cause shown, extended by the hearing officer for one ten (10) day period. Such extension shall not operate as a stay of the suspension and any temporary permit shall expire thirty (30) days after service of the notice of suspension, notwithstanding an extension of the hearing date beyond such thirty (30) day period. Written notice of the date and time of the hearing shall be sent to the party requesting the hearing at least seven (7) days prior to the scheduled hearing date. The department may conduct all hearings by telephone if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

The hearing shall be recorded. The sworn statement of the arresting officer, and the copy of the notice of suspension and any temporary permit issued by the officer shall be admissible at the hearing without further evidentiary foundation. The results of any tests for alcohol concentration or the presence of drugs or other intoxicating substances by analysis of blood, urine or breath administered at the direction of the peace officer and the records relating to calibration, certification, approval or quality control pertaining to equipment utilized to perform the tests shall be admissible as provided in section 18-8004(4), Idaho Code. The arresting officer shall not be required to participate unless directed to do so by a subpoena issued by the hearing officer.

The burden of proof shall be on the person requesting the hearing. The hearing officer shall not vacate the suspension unless he finds, by a preponderance of the evidence, that:

(a) The peace officer did not have legal cause to stop the person; or

(b) The officer did not have legal cause to believe the person had been driving or was in actual physical control of a vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(c) The test results did not show an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(d) The tests for alcohol concentration, drugs or other intoxicating substances administered at the direction of the peace officer were not conducted in accordance with the requirements of section 18-8004(4), Idaho Code, or the testing equipment was not functioning properly when the test was administered; or

(e) The person was not informed of the consequences of submitting to evidentiary testing as required in subsection (2) of this section.

If the hearing officer finds that the person has not met his burden of proof, he shall sustain the suspension. The hearing officer shall make findings of fact and conclusions of law on each issue and shall enter an order vacating or sustaining the suspension. If the suspension is vacated, the person's driver's license, unless unavailable by reason of an existing suspension, revocation, cancellation, disqualification or denial shall be returned to him. The findings of fact, conclusions of

law and order entered by the hearing officer shall be considered a final order pursuant to the provisions of chapter 52, title 67, Idaho Code, except that motions for reconsideration of such order shall be allowed and new evidence can be submitted.

The facts as found by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension required to be imposed under the provisions of this section. If a license is suspended under this section and the person is also convicted on criminal charges arising out of the same occurrence for a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, both the suspension under this section and the suspension imposed pursuant to the provisions of section 18-8005 or 18-8006, Idaho Code, shall be imposed, but the periods of suspension shall run concurrently, with the total period of suspension not to exceed the longer of the applicable suspension periods, unless the court ordering the suspension in the criminal case orders to the contrary.

(8) Judicial review. A party aggrieved by the decision of the hearing officer may seek judicial review of the decision in the manner provided for judicial review of final agency action provided in chapter 52, title 67, Idaho Code.

(9) Restricted noncommercial vehicle driving privileges. A person served with a notice of suspension for ninety (90) days pursuant to this section may apply to the department for restricted noncommercial vehicle driving privileges, to become effective after the thirty (30) day absolute suspension has been completed. The request may be made at any time after service of the notice of suspension. Restricted noncommercial vehicle driving privileges will be issued for the person to travel to and from work and for work purposes not involving operation of a commercial vehicle, to attend an alternative high school, work on a GED, for postsecondary education, or to meet the medical needs of the person or his family if the person is eligible for restricted noncommercial vehicle driving privileges. Any person whose driving privileges are suspended under the provisions of this chapter may be granted privileges to drive a noncommercial vehicle but shall not be granted privileges to operate a commercial motor vehicle.

(10) Rules. The department may adopt rules under the provisions of chapter 52, title 67, Idaho Code, deemed necessary to implement the provisions of this section.

SECTION 2. That Section 18-8004A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004A. PENALTIES -- PERSONS UNDER 21 WITH LESS THAN 0.08 ALCOHOL CONCENTRATION. (1) Any person found guilty of a violation of subsection (1)(d) of section 18-8004, Idaho Code, shall be guilty of a misdemeanor; and, for a first offense:

(a) Shall be fined an amount not to exceed one thousand dollars ($1,000);

(b) Shall have his driving privileges suspended by the court for a period of one (1) year, ninety (90) days of which shall not be reduced and during which period absolutely no driving privileges of any kind may be granted. After the period of absolute suspension of

driving privileges has passed, the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court;

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for any subsequent violation of the provisions of this section or any violation of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall be required to undergo an alcohol evaluation and otherwise comply with the requirements of sections 18-8005(9) and 18-8005(12), Idaho Code, as ordered by the court.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b), (c) or (d), Idaho Code, or any substantially conforming foreign criminal violation, as defined in section 18-8005(8), Idaho Code, notwithstanding the form of the judgment or withheld judgment, is guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of five (5) days, as required by 23 U.S.C. section 164, not to exceed thirty (30) days;

(b) Shall be fined an amount of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000);

(c) Shall have his driving privileges suspended by the court for a period not to exceed two (2) years, one (1) year of which shall be absolute and shall not be reduced and during which period absolutely no driving privileges of any kind may be granted;

(d) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period; and

(e) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of this section or section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(f) Shall undergo an alcohol evaluation and comply with the other requirements of subsections (9) and (12) of section 18-8005, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b), (c) or (d), Idaho Code, or any substantially conforming foreign criminal violation, within five (5) years, notwithstanding the form of the judgment or withheld judgment, shall be guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of ten (10) days, as required by 23 U.S.C. section 164, not to exceed six (6) months;

(b) Shall be fined an amount of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000);

(c) Shall surrender his driver's license or permit to the court;

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year, during which period absolutely no driving privileges of any kind may be granted, or until such person reaches the age of twenty-one (21) years, whichever is greater; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period; and

(f) Shall undergo an alcohol evaluation and comply with all other requirements imposed by the court pursuant to sections 18-8005(9) and 18-8005(12), Idaho Code.

(4) All provisions of section 18-8005, Idaho Code, not otherwise in conflict with or provided for in this section shall apply to any sentencing imposed under the provisions of this section.

(5) A person violating the provisions of section 18-8004(1)(d), Idaho Code, may be prosecuted under title 20, Idaho Code.

(6) Any person whose driving privileges are suspended, revoked, canceled or disqualified under the provisions of this chapter shall not be granted privileges to operate a commercial motor vehicle during the period of suspension, revocation, cancellation or disqualification.

SECTION 3. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. section 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period.

(g) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding

the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. section 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, or any substantially conforming foreign criminal felony violation, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4), (5) and (7) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,)

and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsections (10)(a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or ~~non-use~~ nonuse of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified, or whose driving privileges have been suspended, revoked or canceled under the provisions of this chapter, shall not be granted restricted driving privileges to operate a commercial motor vehicle.

SECTION 4. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, all-terrain vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to

decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license -- ~~c~~Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C~~,~~ or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical

businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/~~t~~Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

(f) "Endorsement S -- School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 5. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements - age 21 years and older $28.50
(b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years $20.50
(c) Class A, B, C (1-year) license with endorsements - age 20 years $12.25
(d) Class D (3-year) license - under age 18 years $20.50
(e) Class D (3-year) license - age 18 to 21 years $20.50
(f) Class D (1-year) license - age 17 years or age 20 years $12.25
(g) Four-year Class D license - age 21 years and older $24.50
(h) Eight-year Class D license - age 21 to 63 years $45.00
(i) Class A, B, C instruction permit $19.50
(j) Class D instruction permit or supervised instruction permit $11.50
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(l) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(m) License classification change (upgrade) $15.50
(n) Endorsement addition $11.50
(o) Class A, B, C skills tests ..... not more than $55.00
(p) Class D skills test $15.00
(q) Motorcycle endorsement skills test ..... $ 5.00
(r) Knowledge test ..... $ 3.00
(s) Seasonal driver's license $27.50
(t) One time motorcycle "M" endorsement $11.50
(u) Motorcycle endorsement instruction permit $11.50
(v) Restricted driving permit or restricted school attendance driving permit $35.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the applicant's social security card or by the social security administration.

(a) The requirement that an applicant provide a social security number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and all applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ~~insure~~ ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars ($10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar ($5.00) fee; and

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

(f) Deposit eleven dollars and fifty cents ($11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents ($11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars ($4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents ($1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars ($4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars ($8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars ($3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar ($1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B or C driver's license, and ten dollars ($10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents ($5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway fund; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway fund; and

(d) Four dollars ($4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway fund; and

(f) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway fund; and

(g) Five dollars and thirty cents ($5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents ($10.60) of each fee for an eight-year class D driver's license, and four dollars ($4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents ($1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and

(h) Seven dollars and twenty cents ($7.20) of each fee for a four-year class D driver's license, and ten dollars and forty cents ($10.40) of each fee for an eight-year class D driver's license, and six dollars ($6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents ($4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Five dollars ($5.00) of each fee for a class A, B or C skills test shall be deposited in the state highway fund; and

(l) One dollar ($1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars ($2.00) of each fee for an eight-year class D driver's license, and one dollar ($1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway fund.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than fifty dollars ($50.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars ($35.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway fund.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 6. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff, his deputy or authorized agents of the department shall examine every applicant for an instruction permit, restricted school attendance driving permit, seasonal driver's license, or a driver's license or a motorcycle endorsement, except as otherwise provided by law. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic. A skills test shall be required for an applicant who has not been previously licensed for the class of license requested, or who holds a license issued by another country unless a reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized

agents. The skills examiner for a motorcycle endorsement shall be certified by the department of education.

(4) The department shall not issue ~~a~~ the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test. ~~The department shall not issue a~~

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) business days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the department of education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the department of education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the eye test, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived.

SECTION 7. That Section 49-325, Idaho Code, be, and the same is hereby amended to read as follows:

49-325. MANDATORY REVOCATION BY DEPARTMENT -- TEMPORARY RESTRICTED PERMIT. (1) The department shall revoke the operating privilege of any driver upon receiving a record of the person's conviction of any of the following offenses, when the conviction has become final, if the court has not ordered the suspension or revocation of the privilege:

(a) Vehicular manslaughter;

(b) Any felony in the commission of which a motor vehicle is used, except that a court of competent jurisdiction shall have exclusive authority to suspend or revoke operating privileges upon conviction of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code;

(c) Perjury or the making of a false affidavit or statement under oath to the department under any law relating to the ownership or operation of motor vehicles;

(d) Conviction, or forfeiture of bail, upon three (3) charges of reckless driving committed within a period of twelve (12) months;

(e) Conviction of a violation of the provisions of section 49-1301, Idaho Code. Revocation in this event shall be for a period of not less than one (1) year.

(2) Whenever any driver's license, permit or operating privilege has been revoked by the department on the basis of subsections (1)(b) through (1)(e) ~~above~~ of this section, the department may issue a temporary restricted permit, except when restricted operating privileges are specifically prohibited by other provisions of law.

(~~3~~a) A temporary restricted permit shall specify the restrictions as to time and area of use and any further restrictions as the department, in its discretion, may impose.

(b) 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.

SECTION 8. 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 preliminary 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.

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;

(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, 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 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 suspension 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.

SECTION 9. That Section 49-335, Idaho Code, be, and the same is hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S LICENSE. (1) Any person who operates a commercial motor vehicle ~~and~~ or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted in the form of a judgment or withheld judgment of a first violation under any state or federal law of:

(a) Operating a ~~commercial~~ motor vehicle while under the influence of alcohol or a controlled substance;

(b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;

(c) Leaving the scene of an accident involving a ~~commercial~~ motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of any felony.

(2) Any person who operates a commercial motor vehicle ~~and~~ or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to a test to determine the driver's alcohol concentration while operating a ~~commercial~~ motor vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a ~~commercial~~ motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period. A conviction for reckless driving shall be considered a serious traffic violation if committed while operating a commercial motor vehicle or a noncommercial motor vehicle, as specified in 49 CFR part 383.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

(a) Ninety (90) days nor more than one (1) year for a first conviction;

(b) One (1) year nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;

(c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

(a) One hundred eighty (180) days nor more than two (2) years for a first conviction;

(b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

(a) Sixty (60) days for a first conviction;

(b) One hundred twenty (120) days for a second conviction during any three (3) year period;

(c) One (1) year for a third or subsequent conviction during any three (3) year period.

(11) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if such person is convicted of operating a commercial motor vehicle during a time when such person's class A, B or C driving privileges were revoked, suspended or canceled or during a time when such person was disqualified from operating a commercial motor vehicle.

(12) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if convicted of causing a fatality through the negligent operation of a commercial motor vehicle. Such negligent operation of a commercial motor vehicle may include, but is not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle, or negligent homicide by motor vehicle.

Approved April 11, 2005.

CHAPTER 353
(S.B. No. 1198)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-5203, IDAHO CODE, TO DEFINE "INDIVIDUAL HSA COMPATIBLE HEALTH BENEFIT PLAN"; AMENDING SECTION 41-5208, IDAHO CODE, TO REFERENCE CATASTROPHIC A, CATASTROPHIC B AND HSA COMPATIBLE HEALTH BENEFIT PLANS; AMENDING SECTION 41-5212, IDAHO CODE, TO REFERENCE HSA COMPATIBLE HEALTH BENEFIT PLANS; AMENDING SECTION 41-5501, IDAHO CODE, TO DEFINE "INDIVIDUAL HSA COMPATIBLE HEALTH BENEFIT PLAN," TO REFERENCE HSA COMPATIBLE HEALTH BENEFIT PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 41-5505, 41-5507, 41-5509 AND 41-5510, IDAHO CODE, TO REFERENCE HSA COMPATIBLE HEALTH BENEFIT PLANS; AMENDING SECTION 41-5511, IDAHO CODE, TO REFERENCE HSA COMPATIBLE BENEFIT PLANS AND TO PROVIDE THAT SUCH PLANS SHALL PROVIDE A SPECIFIED LIFETIME MAXIMUM BENEFIT PER CARRIER WITH COST-SHARING FEATURES THAT MEET FEDERAL QUALIFICATIONS.

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

SECTION 1. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

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

(3) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal

benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(7) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(8) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

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

(10) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident:

(a) Who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) Who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b)(HIPAA)).

An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code.

(11) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(12) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(13) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(15) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(16) "Individual catastrophic B health benefit plan" means a health benefit plan with limits higher than an individual catastrophic A health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(17) "Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to section 41-5511, Idaho Code.

(18) "Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(~~18~~9) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(~~19~~20) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(2~~0~~1) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(2~~1~~2) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(2~~2~~3) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance pool established in chapter 55, title 41, Idaho Code.

(2~~3~~4) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(2~~4~~5) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(2~~5~~6) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

SECTION 2. That Section 41-5208, Idaho Code, be, and the same is hereby amended to read as follows:

41-5208. AVAILABILITY OF COVERAGE -- PREEXISTING CONDITIONS -- PORTABILITY.

(1) (a) Every individual carrier shall, as a condition of offering health benefit plans in this state to individuals, actively offer

health benefit plans to individuals, including the individual basic health benefit plan, the individual standard health benefit plan, the individual catastrophic A health benefit plan, ~~and~~ the individual catastrophic B health benefit plan and the individual HSA compatible health benefit plan.

(b) An individual carrier shall issue an individual basic, standard, catastrophic A, ~~or~~ catastrophic B or HSA compatible health benefit plan to any eligible individual that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.

(2) (a) An individual carrier shall file with the director, in a format and manner prescribed by the director, the basic, standard, ~~and~~ catastrophic, and HSA compatible health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by an individual carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the individual carrier, disapprove the continued use by an individual carrier of a basic, standard, ~~or~~ catastrophic, or HSA compatible health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering eligible individuals shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period for the period of time an individual was previously covered by qualifying previous coverage, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. As provided in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)), with regard to federally eligible individuals under HIPAA, any limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the first day of coverage shall not apply, whether or not any medical advice, diagnosis, care or treatment was recommended or received before that day, and whether or not the condition would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment before that day.

(c) An individual carrier shall not modify a basic, standard, or catastrophic A, catastrophic B or HSA compatible health benefit plan with respect to an individual or any dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(d) In the case of an individual who is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, the preexisting condition limitation shall not apply only if the individual maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in pool coverage, not counting any period prior to a sixty-three (63) day break in coverage.

(4) (a) An individual carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To an individual, where the individual is not residing in the carrier's established geographic service area;

(ii) Within an area where the individual carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to individuals because of its obligations to existing groups or individuals.

(b) An individual carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(ii) of this section may not offer coverage in the applicable area to new employer groups with more than fifty (50) eligible employees or to any small employer groups or to any individuals until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to individuals and groups.

(5) An individual carrier shall not be required to provide coverage to individuals pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of individuals in accordance with the provisions of subsection (1) of this section would place the individual carrier in a financially impaired condition.

SECTION 3. That Section 41-5212, Idaho Code, be, and the same is hereby amended to read as follows:

41-5212. STANDARDS TO ASSURE FAIR MARKETING. (1) Each individual carrier shall actively market health benefit plan coverage, including the individual basic, standard, catastrophic A, ~~and~~ catastrophic B, and HSA compatible health benefit plans, to eligible individuals in the state. If an individual carrier denies coverage to an individual on the basis of the health status or claims experience of the individual or dependents, the individual carrier shall offer the individual the opportunity to purchase an individual basic, standard, catastrophic A, ~~or~~ catastrophic B, or HSA compatible health benefit plan.

(2) (a) Except as provided in subsection (2)(b) of this section, no individual carrier or agent shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing individuals to refrain from filing an application for coverage with the individual carrier because of the health status, claims experience, industry, occupation or geographic location of the individual or dependents.

(ii) Encouraging or directing individuals to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of subsection (2)(a) of this section shall not apply with respect to information provided by an individual carrier or agent to an individual regarding the established geographic service area or a restricted network provision of an individual carrier.

(3) (a) Except as provided in subsection (2)(b) of this section, no individual carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent that provides for or results in the compensation paid to an agent for the sale of a health benefit plan to be carried because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of paragraph (a) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the individual.

(4) An individual carrier shall provide reasonable compensation, as provided under the plan of operation of the individual high risk reinsurance pool, to an agent, if any, for the sale of an individual basic, standard, catastrophic A, or catastrophic B, or HSA compatible health benefit plan.

(5) No individual carrier may terminate, fail to renew or limit its contract or agreement of representation with an agent for any reason related to the health status, claims experience, occupation or geographic location of the individuals placed by the agent with the individual carrier.

(6) Denial by an individual carrier of an application for coverage from an individual shall be in writing and shall state the reason or reasons for the denial.

(7) The director may establish rules setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to individuals in this state.

(8) (a) A violation of the provisions of this section by an individual carrier or an agent shall be an unfair trade practice pursuant to the provisions of section 41-1302, Idaho Code.

(b) If an individual carrier enters into a contract, agreement or other arrangement with a third party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to individuals in this state, the third party administrator shall be subject to the provisions of this section as if it were an individual carrier.

SECTION 4. That Section 41-5501, Idaho Code, be, and the same is hereby amended to read as follows:

41-5501. DEFINITIONS. As used in this chapter:

(1) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(2) "Board" means the board of directors of the Idaho high risk individual reinsurance pool established in this chapter and the Idaho small employer reinsurance program established in section 41-4711, Idaho Code.

(3) "Carrier" means any entity that provides, or is authorized to provide, health insurance in this state. For purposes of this chapter, carrier includes an insurance company, any other entity providing reinsurance including excess or stop loss coverage, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(4) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

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

(6) "Eligible individual" means:

(a) An Idaho resident individual or dependent of an Idaho resident who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) An individual who is legally domiciled in Idaho on the date of application to the pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986; or

(~~b~~c) An Idaho resident individual or a dependent of an Idaho resident who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).

Coverage under a basic, standard, catastrophic A, ~~or~~ catastrophic B, or HSA compatible health benefit plan shall not be available to any individual who is covered under other health insurance coverage. For purposes of this chapter, to be eligible, an individual must also meet the requirements of section 41-5510, Idaho Code.

(7) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-

term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-5511, Idaho Code.

(9) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

(10) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-5511, Idaho Code.

(11) "Individual catastrophic B health benefit plan" means a health benefit plan offering limits higher than a catastrophic A health benefit plan developed pursuant to section 41-5511, Idaho Code.

(12) "Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to section 41-5511, Idaho Code.

(13) "Individual standard health benefit plan" means a health benefit plan developed pursuant to section 41-5511, Idaho Code.

(13~~4~~) "Plan" or "pool plan" means the individual basic, standard, catastrophic A, or catastrophic B, or HSA compatible health benefit plan established pursuant to section 41-5511, Idaho Code.

(14~~5~~) "Plan of operation" means the plan of operation of the individual high risk reinsurance pool established pursuant to this chapter.

(15~~6~~) "Pool" means the Idaho high risk reinsurance pool.

(16~~7~~) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(17~~8~~) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization or a fraternal benefit society.

(18~~9~~) "Reinsurance premium" means the premium set by the board pursuant to section 41-5506, Idaho Code, to be paid by a reinsuring carrier for plans issued under the pool.

(19~~20~~) "Reinsuring carrier" means a carrier participating in the individual high risk reinsurance pool established by this chapter.

(20~~1~~) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

SECTION 5. That Section 41-5505, Idaho Code, be, and the same is hereby amended to read as follows:

41-5505. REINSURANCE. (1) Any individual carrier issuing an individual basic, standard, catastrophic A, ~~or~~ catastrophic B, or HSA compatible health benefit plan as provided in this chapter shall be reinsured by the pool to the level of coverage provided in the plan and shall be liable to the pool for the reinsurance premium.

(2) (a) The pool shall not reimburse a reinsuring carrier with respect to the claims of a reinsured individual or dependent until the carrier has incurred an initial level of claims for such individual or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the pool. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next twenty-five thousand dollars ($25,000) of benefit payments during a calendar year and the pool shall reinsure the remainder.

(b) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(3) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(4) Each carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery in this state in the previous calendar year.

(5) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan, or through excess or stop loss coverage.

SECTION 6. That Section 41-5507, Idaho Code, be, and the same is hereby amended to read as follows:

41-5507. PREMIUM RATES FOR PLAN COVERAGE. (1) The board shall establish premium rates for coverage under the individual basic, standard, catastrophic A, ~~and~~ catastrophic B, and HSA compatible health benefit plans.

(2) Separate schedules of premium rates based on age, individual tobacco use, geography as defined by rule of the director, gender and benefit plan design shall apply for individual risks.

(3) The board, with the assistance of the director and in accordance with appropriate actuarial principles, shall determine a standard risk rate by using the average rates that individual standard risks in this state are charged by at least five (5) of the largest health insurance carriers providing individual health insurance coverage to residents of Idaho that is substantially similar to the coverage offered by each pool plan. In determining the average rate or charges of those health insurance carriers, the rates charged by those carriers shall be actuarially adjusted to determine the rate that would have been charged

for benefits similar to those provided by each plan. The standard risk rates shall be established using reasonable actuarial techniques and shall reflect anticipated claims experience, expenses, and other appropriate risk factors for such coverage.

(4) Rates for plan coverage shall not be less than one hundred twenty-five percent (125%) nor more than one hundred fifty percent (150%) of rates established as applicable for individual standard risks pursuant to subsection (3) of this section.

SECTION 7. That Section 41-5509, Idaho Code, be, and the same is hereby amended to read as follows:

41-5509. STANDARDS FOR AGENTS. The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to agents for the sale of individual basic, standard, catastrophic A, ~~and~~ catastrophic B, and HSA compatible health benefit plans. In establishing such standards, the board shall take into consideration the need to assure broad availability of coverages, the objectives of the pool, the time and effort expended in placing the coverage, the need to provide ongoing service to the individual, the levels of compensation currently used in the industry and the overall costs of coverage to individuals selecting these plans.

SECTION 8. That Section 41-5510, Idaho Code, be, and the same is hereby amended to read as follows:

41-5510. ELIGIBILITY. (1) Any individual eligible person, who is and continues to be a resident shall be eligible for coverage under an individual basic, standard, catastrophic A, ~~or~~ catastrophic B, and HSA compatible health benefit plan if evidence is provided that:

(a) Such person has been rejected by one (1) individual carrier on the basis of health status or claims experience; or

(b) An individual carrier refuses to issue a health benefit plan providing coverage substantially similar to coverage offered under an equivalent pool plan except at a rate exceeding the rate for the pool plan; or

(c) Such person is legally domiciled in Idaho on the date of application to the pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986. In addition, if such person maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in pool coverage, not counting any period prior to a sixty-three (63) day break in coverage:

(i) The preexisting condition limitation set forth in section 41-5208, Idaho Code, shall not apply; and

(ii) The requirement for exhaustion of any available COBRA or state continuation benefits is waived.

(2) A rejection or refusal by a carrier offering only stop loss, excess of loss or reinsurance coverage with respect to an applicant under subsection (1) of this section shall not constitute sufficient evidence for purposes of subsection (1) of this section.

(3) Each resident dependent of a person who is eligible for coverage under the pool shall also be eligible for coverage under the pool.

(4) A person shall not be eligible for coverage under a pool plan if:

(a) The person has or obtains health insurance coverage substantially similar to or more comprehensive than a pool plan, or would be eligible to have coverage if the person elected to obtain it;

(b) The person is determined to be eligible for health care benefits under medicaid;

(c) The person has previously terminated pool plan coverage unless twelve (12) months have lapsed since such termination; provided however, that this provision shall not apply with respect to an applicant who is a federally eligible individual;

(d) The person is an inmate or resident of a state or other public institution, or a state, local or private correctional facility; provided however, that this provision shall not apply with respect to an applicant who is a federally eligible individual.

(5) Coverage shall cease:

(a) On the first day of the month following the date a person is no longer a resident of this state;

(b) On the first day of the month following the date a person requests coverage to end;

(c) Upon the death of the covered person;

(d) At the option of the board, thirty (30) days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(6) A person who ceases to meet the eligibility requirements of this section may be terminated on the first day of the month following the date when the individual becomes ineligible.

SECTION 9. That Section 41-5511, Idaho Code, be, and the same is hereby amended to read as follows:

41-5511. DESIGN OF PRODUCTS. (1) The board shall design the individual basic, standard, catastrophic A, ~~and~~ catastrophic B, and HSA compatible health benefit plans, with an emphasis on making coverage available for preventive care, and subject to the deductibles and maximum benefits provided in subsection (2) of this section.

(2) (a) The basic health benefit plan shall provide a deductible of five hundred dollars ($500), with a lifetime maximum benefit of five hundred thousand dollars ($500,000) per carrier;

(b) The standard health benefit plan shall provide a deductible of one thousand dollars ($1,000), with a lifetime maximum benefit of one million dollars ($1,000,000) per carrier;

(c) The catastrophic A health benefit plan shall offer a deductible of two thousand dollars ($2,000) and a lifetime maximum benefit of one million dollars ($1,000,000) per carrier; ~~and~~

(d) The catastrophic B health benefit plan shall offer a deductible of five thousand dollars ($5,000) and a lifetime maximum benefit of one million dollars ($1,000,000) per carrier; and

(e) The HSA compatible health benefit plan shall provide a lifetime maximum benefit of one million dollars ($1,000,000) per carrier with a deductible and other cost-sharing features that meet federal high deductible health plan qualifications as defined in public law 108-173, title XII, section 1201(a), 117 stat. 2469.

(3) The board shall establish all other benefit levels, as well as

cost sharing arrangements, exclusions and limitations for each health benefit plan. The plan designs for the small employer market shall not necessarily be the same as the plan designs for the individual market.

(4) The board shall also design an individual basic, standard, catastrophic A, ~~and~~ catastrophic B, and HSA compatible health benefit plan which each contain benefit and cost-sharing arrangements that are consistent with the basic method of operation and the benefit plans of managed care organizations, including any restrictions imposed by federal law, which may include cost containment features such as the following:

(a) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(b) Case management;

(c) Selective contracting with hospitals, physicians and other health care providers;

(d) Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions; and

(e) Other managed care provisions.

(5) The board shall submit the health benefit plans or changes described in this section to the director for approval. The director shall promulgate the approved plans in accordance with the provisions of chapter 52, title 67, Idaho Code.

(6) The board may appoint an advisory committee to assist it in developing the health benefit plans prescribed by this section.

Approved April 12, 2005.

CHAPTER 354
(S.B. No. 1236)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR FORENSIC SERVICES FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR THE PEACE OFFICER STANDARDS AND TRAINING ACADEMY FOR FISCAL YEAR 2006; AND AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to any other appropriation provided by law, there is hereby appropriated to the Idaho State Police for Forensic Services the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Operating Expenditures	$50,000
FROM:	
General Fund	$50,000

SECTION 2. In addition to any other appropriation provided by law, there is hereby appropriated to the Idaho State Police for the Peace Officer Standards and Training Academy the following amount to be

expended according to the designated expense classes from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:	
Personnel Costs	$ 555,500
Operating Expenditures	533,800
Capital Outlay	130,400
TOTAL	$1,219,700
FROM:	
Peace Officers Fund	$1,219,700

SECTION 3. In addition to the full-time equivalent positions authorized in Section 2, Senate Bill No. 1209, as enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Idaho State Police is hereby authorized an additional ten (10) full-time equivalent positions for the period July 1, 2005, through June 30, 2006.

Approved April 12, 2005.

CHAPTER 355
(H.B. No. 110, As Amended, As Amended in the Senate)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622QQ, IDAHO CODE, TO PROVIDE A SALES AND USE TAX REBATE FOR THE SALE OR USE OF MACHINERY AND EQUIPMENT USED IN ALTERNATIVE METHODS OF GENERATION OF ELECTRICITY, TO DEFINE TERMS AND TO PROVIDE PROCEDURES; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622QQ, Idaho Code, and to read as follows:

63-3622QQ. EQUIPMENT USED IN ALTERNATIVE METHOD OF GENERATION OF ELECTRICITY. (1) Purchasers of machinery and equipment used directly in generating electricity using fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power may qualify for a rebate of sales or use taxes paid on such purchases but only if the purchaser develops with such machinery, equipment, and tangible personal property a facility capable of generating not less than twenty-five (25) kilowatts of electricity.

(2) For purposes of this section:

(a) "Landfill gas" means biomass fuel of the type qualified for federal tax credits under 26 U.S.C. section 29 collected from a landfill. "Landfill" means a landfill as defined in section 39-7403, Idaho Code;

(b) "Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun, or landfill gas as the principal source of power;

(c) "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one (1) year;

(iii) Repair parts required to restore machinery and equipment to normal working order;

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;

(v) Buildings; or

(vi) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building;

(d) Machinery and equipment is "used directly" in generating electricity with fuel cells or by low impact hydro, wind energy, geothermal resources, biomass, cogeneration, solar energy or landfill gas power if it provides any part of the process that captures the energy of the fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun, or landfill gas, converts that energy to electricity, and stores, transforms or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems;

(e) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst;

(f) "Low impact hydro" means an electric generating facility utilizing water for the generation of electricity, housed in existing canals or existing reservoirs and having a power production capacity twenty-five (25) kilowatts or greater.

(3) To qualify for the rebate, the taxpayer and his contractors must pay sales and use tax on their purchases of property. Once a public utility, a cooperative, a municipality or the public utilities commission certifies the project will generate at least twenty-five (25) kilowatts of electricity, the taxpayer may file a refund request with the state tax commission. The refund request shall state that the taxpayer will construct or has constructed a project that will generate sufficient kilowatts of electricity at the project site to be eligible for the rebate and that the taxpayer is entitled to receive a rebate of all sales and use taxes paid that qualifies for the rebate created by this section.

(4) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the state tax commission may require, the rebate shall be paid by the state tax commission as a refund allowable under section 63-3626, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(5) Any rebate paid shall be subject to recapture by the state tax commission. In the event the property is not used, stored or otherwise consumed in the process of generating electricity for a period of sixty (60) months, the state tax commission may recapture the tax paid in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(6) Any recapture amount due under this section shall be a defi-

ciency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section 63-3633, Idaho Code, the period of time within which the commission may issue a notice under section 63-3629, Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year, for income tax purposes, in which the project period ends.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and shall be null, void and of no force and effect on and after July 1, 2011.

Approved April 12, 2005.

CHAPTER 356
(H.B. No. 269)

AN ACT

RELATING TO CHARITABLE RAFFLES; AMENDING SECTION 67-7702, IDAHO CODE, TO FURTHER DEFINE TERMS; AND AMENDING SECTION 67-7710, IDAHO CODE, TO PROVIDE REGULATION OF AND LIMITATIONS ON HOLIDAY CHRISTMAS TREE FUNDRAISERS BY THE LOTTERY COMMISSION.

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

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

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

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

(a) Upon approval by the bingo-raffle advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

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

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

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

(3) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide

nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo or raffle game.

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

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

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

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

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

(~~8~~9) "Organization" means a charitable organization or a nonprofit organization.

(~~9~~10) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentalities thereof.

(~~10~~11) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.

(~~11~~12) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.

(~~12~~13) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

(~~13~~14) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.

SECTION 2. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES -- ~~AND~~ DUCK RACES -- HOLIDAY CHRISTMAS TREE FUNDRAISERS. (1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable organization per year, provided that this limitation shall not apply to public or private elementary or secondary schools located in this state. The maximum aggregate value of cash prize(s) that may be offered or paid for any one (1) raffle, which is not a duck race or a holiday Christmas tree fundraiser, is one thousand dollars ($1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum aggregate value of the cash prize(s) is one thousand dollars ($1,000). There shall be no maximum value on the amount that a tree may be raffled for in a holiday Christmas tree fundraiser. There shall be no limit on the maximum of value for merchandise used as a prize in a duck race or a holiday Christmas tree fundraiser if the merchandise is not redeemable for cash.

(3) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. "Net proceeds of a holiday Christmas tree fundraiser" shall mean the gross receipts less the cost of procuring the trees or other prizes. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the charitable organization for charitable, religious, educational, civic or other nonprofit purposes.

(4) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of raffles conducted or sponsored by the charitable or nonprofit organization;
(b) The location and date at which each raffle was conducted;
(c) The gross revenues of each raffle;
(d) The fair market value of any prize given at each raffle;
(e) The amount paid in prizes at each raffle;

(f) The amount paid to the charitable organization;

(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission.

(5) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars ($200,000) from the operation of raffle events shall provide the state lottery with a copy of an annual audit of the raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

Approved April 12, 2005.

CHAPTER 357
(H.B. No. 291, As Amended in the Senate)

AN ACT

RELATING TO LIQUOR LICENSES; AMENDING SECTION 23-903b, IDAHO CODE, TO PROVIDE AN EXCEPTION; AND AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-956, IDAHO CODE, TO PROVIDE FOR THE CONTINUATION OF GOLF COURSE LIQUOR LICENSES FOLLOWING CHANGE OF LAND USE.

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

SECTION 1. That Section 23-903b, Idaho Code, be, and the same is hereby amended to read as follows:

23-903b. LICENSES ISSUED TO OWNERS, OPERATORS OR LESSEES OF GOLF COURSES, SKI RESORTS, CROSS-COUNTRY SKIING FACILITIES AND WATERFRONT RESORTS -- LIMITATIONS ON SALES OR TRANSFERS. No license issued to an owner, operator, or lessee of a golf course, ski resort, cross-country skiing facility or waterfront resort, as defined in sections 23-903, 23-948 and 23-952, Idaho Code, shall be transferable to another location or facility, except as otherwise provided in section 23-956, Idaho Code.

SECTION 2. That Chapter 9, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-956, Idaho Code, and to read as follows:

23-956. CONTINUATION OF GOLF COURSE LIQUOR LICENSE FOLLOWING CHANGE OF LAND USE. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of a premises previously licensed as a golf course under the provisions of section 23-903, Idaho Code, following termination of the golf course use and conversion of the premises to another use or uses, provided that the golf course was licensed as a golf course under the provisions of section 23-903, Idaho Code, for a minimum of twenty (20) years prior to such termination. The provisions of section 23-910, Idaho Code, shall be applicable to licenses issued pursuant to this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless the premises is located within the incorporated limits of any

city, in which case the fee shall be the same as that prescribed for a license in a city of that size as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable away from the premises. Upon termination of the golf course use, no part of the premises shall be eligible for the issuance of an additional license pursuant to section 23-955, Idaho Code, due to a split in ownership which occurs after such termination. The eligibility to obtain a license pursuant to this section following termination of the golf course use shall, in the event of a later split in ownership of the premises, be allocated to one (1) of the parcels resulting from such split, either by contract between the parties to the split or by grant or reservation in the deed of conveyance. In the event the contract between the parties or the deed of conveyance fails to specify which parcel retains eligibility under this section, eligibility shall be deemed to be retained by the parcel upon which is, or was, located the greater share of physical improvements at or within which alcohol was served prior to the split in ownership. Upon any further split of the parcel retaining eligibility to obtain a license pursuant to this section, the same restrictions shall apply to the new split in ownership and any future splits of the parcel retaining such eligibility, such that there shall never be more than one (1) license issued pursuant to this section for the land constituting the original golf course premises. Nothing in this section shall prohibit the issuance of a license to the owner, operator or lessee of any split-off parcel to the extent such parcel qualifies for a license under any other provision of this chapter.

Approved April 12, 2005.

CHAPTER 358
(H.B. No. 301)

AN ACT

RELATING TO MENTAL HEALTH COURTS; AMENDING THE HEADING FOR CHAPTER 56, TITLE 19, IDAHO CODE; AMENDING SECTION 19-5601, IDAHO CODE, TO REVISE THE SHORT TITLE; AMENDING SECTION 19-5602, IDAHO CODE, TO REVISE THE LEGISLATIVE STATEMENT OF POLICY; AMENDING SECTION 19-5603, IDAHO CODE, TO REFERENCE THE DRUG COURT AND MENTAL HEALTH COURT COORDINATING COMMITTEE; AMENDING SECTION 19-5606, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REFERENCE THE DRUG COURT AND MENTAL HEALTH COURT COORDINATING COMMITTEE, TO PROVIDE FOR MENTAL HEALTH COURT COORDINATORS, TO PROVIDE FOR A DRUG COURT AND MENTAL HEALTH COURT IMPLEMENTATION PLAN AND DRUG COURT AND MENTAL HEALTH COURT PROGRAMS, TO REFERENCE MENTAL HEALTH COURTS AND TO PROVIDE FOR AN AUTOMATED DRUG COURT AND MENTAL HEALTH COURT MANAGEMENT INFORMATION SYSTEM; AMENDING SECTION 19-5607, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO PROVIDE FOR APPROPRIATIONS FOR MENTAL HEALTH COURTS; AMENDING SECTION 19-5608, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REFERENCE MENTAL HEALTH COURTS AND TO PROVIDE FOR A DRUG COURT AND MENTAL HEALTH COURT FEE; AMENDING CHAPTER 56, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5609, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF MENTAL HEALTH COURTS

AND TO PROVIDE FOR EVALUATIONS AND REPORTS; AND AMENDING SECTION 31-3201E, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REFERENCE MENTAL HEALTH COURTS, TO REFERENCE THE DRUG COURT AND MENTAL HEALTH COURT FEE, TO REFERENCE THE DRUG COURT AND MENTAL HEALTH COURT FUND AND TO PROVIDE FOR EXPENSES INCURRED IN CONNECTION WITH MENTAL HEALTH TREATMENT.

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

SECTION 1. That the Heading for Chapter 56, Title 19, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 56
IDAHO DRUG COURT AND MENTAL HEALTH COURT ACT

SECTION 2. That Section 19-5601, Idaho Code, be, and the same is hereby amended to read as follows:

19-5601. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Drug Court and Mental Health Court Act."

SECTION 3. That Section 19-5602, Idaho Code, be, and the same is hereby amended to read as follows:

19-5602. STATEMENT OF POLICY. The legislature finds that:

(1) Substance abuse is a contributing cause for much of the crime in Idaho, costs millions of dollars in productivity, contributes to the ever increasing jail and prison populations and adversely impacts Idaho children;

(2) Drug courts which closely supervise, monitor, test and treat substance abusers have proven effective in certain judicial districts in Idaho and in other states in reducing the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. Successful drug courts are based on partnerships among the courts, law enforcement, corrections and social welfare agencies;

(3) Mental illness is a substantial contributing cause to crime in Idaho. Crimes committed by persons suffering from mental illness cause substantial losses to persons and business throughout the state and endanger public safety. In addition, millions of dollars are spent each year on the incarceration, supervision and treatment of mentally ill offenders;

(4) Mental health courts in Idaho and other jurisdictions that closely supervise and monitor mentally ill adult and juvenile offenders and oversee their treatment are an innovative alternative to incarceration for certain offenders. Such courts, which can be operated in conjunction with drug courts, have provided a cost-effective approach to addressing the mental health needs of offenders, reducing recidivism, providing community protection, easing the caseload of the courts, and alleviating the problem of increasing prison, jail and detention populations; and

(5) It is in the best interests of the citizens of this state to expand the use of drug courts and mental health courts in Idaho.

The goals of the drug courts and mental health courts created by this chapter are to reduce the overcrowding of jails and prisons, to reduce alcohol and drug abuse and dependency among criminal and juvenile offenders, to hold offenders accountable, to reduce recidivism, and to promote effective interaction and use of resources among the courts, justice system personnel and community agencies.

SECTION 4. That Section 19-5603, Idaho Code, be, and the same is hereby amended to read as follows:

19-5603. DRUG COURT -- ESTABLISHMENT. The district court in each county may establish a drug court which shall include a regimen of graduated sanctions and rewards, substance abuse treatment, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as may be established by the district court, in accordance with standards developed by the Idaho supreme court drug court and mental health court coordinating committee.

SECTION 5. That Section 19-5606, Idaho Code, be, and the same is hereby amended to read as follows:

19-5606. IMPLEMENTATION OF DRUG COURTS AND MENTAL HEALTH COURTS. The supreme court shall establish a drug court and mental health court coordinating committee consisting of judges, court administrators, drug court coordinators, mental health court coordinators, prosecuting attorneys, public defenders, state and county probation officers, treatment providers, representatives of the department of correction, the department of education, the commission of pardons and parole, the department of health and welfare, the department of juvenile corrections, the Idaho state police, the Idaho transportation department, legislators, a representative of the governor's office, law enforcement officers, mental health professionals, and others, which shall establish a drug court and mental health court implementation plan and oversee ongoing drug court and mental health court programs. The implementation plan shall include a strategy to forge partnerships among drug courts, mental health courts, public agencies, and community-based organizations to enhance drug court and mental health court effectiveness. The committee shall also develop guidelines for drug courts and mental health courts addressing eligibility, identification and screening, assessment, treatment and treatment providers, case management and supervision, and evaluation. The coordinating committee shall also solicit specific drug court and mental health court plans, and recommend funding priorities and decisions per judicial district; pursue all available alternate funding; provide technical assistance, develop procedural manuals, and schedule training opportunities for the drug court and mental health court teams; design an evaluation strategy, including participation in the statewide substance abuse evaluation plan; and design an automated drug court and mental health court management information system, which promotes information sharing with other entities.

SECTION 6. That Section 19-5607, Idaho Code, be, and the same is hereby amended to read as follows:

19-5607. DRUG COURT AND MENTAL HEALTH COURT FUNDING. Subject to the appropriation power of the legislature, the supreme court shall be responsible for administering, allocating and apportioning all appropriations from the legislature for drug courts and mental health courts.

SECTION 7. That Section 19-5608, Idaho Code, be, and the same is hereby amended to read as follows:

19-5608. DRUG COURT AND MENTAL HEALTH COURT FEE. Each person admitted into a drug court or mental health court shall pay the drug court and mental health court fee as established in section 31-3201E, Idaho Code.

SECTION 8. That Chapter 56, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-5609, Idaho Code, and to read as follows:

19-5609. MENTAL HEALTH COURTS. (1) The district court in each county may establish a mental health court which shall include a regimen of graduated sanctions and rewards, mental health and other appropriate treatment, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, eligibility standards and other requirements as may be established by the district court, in accordance with standards developed by the Idaho supreme court drug court and mental health court coordinating committee. No person has a right to be admitted into a mental health court. A mental health court may be operated in conjunction with a drug court.

(2) The district court of each county that has implemented a mental health court shall annually evaluate the mental health court's effectiveness and provide a report to the supreme court as requested. If the mental health court is operated in conjunction with a drug court, a single report may be submitted for the drug court and mental health court. A report evaluating the effectiveness of mental health courts in the state shall be submitted to the governor and to the legislature by the first day of the legislative session each year.

SECTION 9. That Section 31-3201E, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201E. DRUG COURT AND MENTAL HEALTH COURT FEE -- DRUG COURT AND MENTAL HEALTH COURT FUND. Each person admitted into a drug court or mental health court shall pay a drug court and mental health court fee in an amount not to exceed three hundred dollars ($300) per month or a lesser amount as set by the administrative district judge for participants in the drug court and mental health court. For good cause, the judge presiding over a drug court or mental health court may exempt a participant from paying all or a portion of the drug court and mental health court fee. The fee imposed under this section shall be paid to the clerk of the district court for deposit into the county drug court and mental health court fund which is hereby created in each county that has a drug court or mental health court. Moneys in this fund may be accumulated from year to year and shall be expended exclusively for expenses incurred in connection with the drug court or mental health court including, but not limited to, substance abuse treatment, mental

health treatment, drug testing, supervision and private counseling services utilized by the drug court or mental health court. Any failure to pay the drug court and mental health court fee may constitute grounds for termination from drug court or mental health court by the court, provided this shall not be the exclusive remedy for collection of the fee. If a participant is terminated from the drug court or mental health court prior to successful completion of the program and a judgment of conviction is entered against the defendant, any unpaid drug court and mental health court fee shall be ordered by the court in the judgment of conviction, provided the court may order such fee to be waived if the court determines that the person is indigent and unable to pay the fee. Such fee shall be in addition to all other fines and fees levied, and the payment of such fee may also be ordered as a term and condition of probation.

Approved April 12, 2005.

CHAPTER 359
(H.B. No. 326)

AN ACT

RELATING TO MISDEMEANOR FINES; AMENDING SECTIONS 18-113, 18-902 AND 18-904, IDAHO CODE, TO INCREASE MAXIMUM FINES FOR MISDEMEANORS; AMENDING SECTION 18-2509, IDAHO CODE, TO INCREASE THE MAXIMUM FINE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-2510, IDAHO CODE, TO INCREASE THE MAXIMUM FINE; AMENDING SECTIONS 18-3312, 18-3613 AND 18-4621, IDAHO CODE, TO INCREASE MAXIMUM FINES FOR MISDEMEANORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-4626, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR MISDEMEANORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-6711A, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR MISDEMEANORS; AMENDING SECTION 18-6713, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR MISDEMEANORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-7011, IDAHO CODE, TO INCREASE THE MAXIMUM FINE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTIONS 18-8001, 31-714 AND 50-302, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR MISDEMEANORS.

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

SECTION 1. That Section 18-113, Idaho Code, be, and the same is hereby amended to read as follows:

18-113. PUNISHMENT FOR MISDEMEANOR. (1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding ~~three--hundred~~ one thousand dollars ($~~3~~1,000), or by both.

(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to ~~three-hundred~~ one thousand dollars ($~~3~~1,000). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.

SECTION 2. That Section 18-902, Idaho Code, be, and the same is hereby amended to read as follows:

18-902. ASSAULT -- PUNISHMENT. An assault is punishable by fine not exceeding ~~three-hundred~~ one thousand dollars ($~~3~~1,000), or by imprisonment in the county jail not to exceed three (3) months, or by both such fine and imprisonment.

SECTION 3. That Section 18-904, Idaho Code, be, and the same is hereby amended to read as follows:

18-904. BATTERY -- PUNISHMENT. Battery is punishable by a fine not exceeding ~~five-hundred~~ one thousand dollars ($~~5~~1,000), or by imprisonment in the county jail not to exceed six (6) months, or both unless the victim is pregnant and this fact is known to the batterer, in which case the punishment is by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not to exceed one (1) year, or both.

SECTION 4. That Section 18-2509, Idaho Code, be, and the same is hereby amended to read as follows:

18-2509. PUNISHMENT FOR VIOLATION OF PRECEDING SECTION. Any person violating the provisions of this act upon conviction, shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($~~300~~1,000), or imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both.

SECTION 5. That Section 18-2510, Idaho Code, be, and the same is hereby amended to read as follows:

18-2510. ILLICIT CONVEYANCE OF ARTICLES INTO CORRECTIONAL FACILITIES. (1) If any person delivers or procures to be delivered, or has in his possession with intent to be delivered in any manner, to a prisoner of any state correctional facility, or deposits or conceals in or about the facility or dependencies thereon, or upon any lands belonging or pertaining thereto, or in any vehicle going into the premises belonging to the said facility, any letter, article or thing with the intent that a prisoner confined in said facility shall obtain or receive the same, or if any person receives from any prisoner of said facility, any letter, article or thing with intent to convey the same out of the facility contrary to the rules thereof, and without the knowledge and permission of the warden of said facility, or if any person shall purchase, exchange, take or receive from any prisoner thereof while he may be working outside said facility, any letter, article or thing, whether state or other property, manufactured or used in and about said facility, without the knowledge and permission of the warden of said facility, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding ~~three-hundred~~ one thousand dollars ($~~3~~1,000), or imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(2) As used in this section, a correctional facility is a facility

for housing persons committed or transferred to the custody of the board of correction, or a private correctional facility housing prisoners under the custody of the board of correction or housing out-of-state prisoners, as defined in section 18-101A, Idaho Code, but shall not include facilities operated by, or under the control of, other agencies of state, county or municipal government.

SECTION 6. That Section 18-3312, Idaho Code, be, and the same is hereby amended to read as follows:

18-3312. INJURING ANOTHER BY CARELESS HANDLING AND DISCHARGE OF FIREARMS. Any person who handles, uses or operates any firearm in a careless, reckless or negligent manner, or without due caution and circumspection, whereby the same is fired or discharged and maims, wounds or injures any other person or persons, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($~~3~~1,000), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 7. That Section 18-3613, Idaho Code, be, and the same is hereby amended to read as follows:

18-3613. SIMULATION OF SWITCH AND CAR KEYS. It shall be unlawful for any person by himself or another, without the written order or consent of such common carrier, to make, simulate, sell or dispose of any key belonging to or which might be used to open or unlock any switch, lock, car lock, or locks, used upon or belonging to any switch or car of any kind owned, controlled or operated by any common carrier in this state. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100~~-00~~) nor more than one thousand dollars ($~~300~~-1,000), or by imprisonment in the county jail not less than thirty (30) days nor more than six (6) months.

SECTION 8. That Section 18-4621, Idaho Code, be, and the same is hereby amended to read as follows:

18-4621. STEALING ELECTRIC CURRENT -- TAMPERING WITH METERS. Whoever shall without permission or authority of any person, firm or corporation engaged in the generation or distribution of electricity, make connections, or cause connections to be made, by wire or wires or by any other device, with the wires, cables or conductors, or any of them, of any such person, firm or corporation, for the purpose of obtaining or diverting electric current from such wires, cables or conductors; or whoever shall, without permission or authority from any person, firm or corporation using any meter or meters erected or set up for the purpose of registering or recording the amount of electric current supplied to any customer of such person, firm or corporation within this state, connect or cause to be connected by wire or any other device, any such meter or meters, or change or shunt the wiring leading to or from any such meter or meters, or by any device or appliance or means whatsoever tamper with any such meter or meters in such manner that such meter or meters do not measure or record the full amount of electric current supplied to such customer, shall be guilty of a misdemeanor, and upon con-

viction thereof shall be punished by a fine not exceeding one thousand dollars ($~~300~~1,000), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment: provided, that nothing herein contained shall be deemed to affect the right of any person, firm or corporation to recover by action in any court of competent jurisdiction damages for any injury done by such unlawful acts.

SECTION 9. That Section 18-4626, Idaho Code, be, and the same is hereby amended to read as follows:

18-4626. ~~WILFUL~~ WILLFUL CONCEALMENT OF GOODS, WARES OR MERCHANDISE -- DEFENSE FOR DETENTION. (a) Whoever, without authority, ~~wilfully~~ willfully conceals the goods, wares or merchandise of any store or merchant, while still upon the premises of such store or merchant, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ~~three hundred~~ one thousand dollars ($~~3~~1,000) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. Goods, wares or merchandise found concealed upon the person shall be prima facie evidence of a ~~wilful~~ willful concealment.

(b) Any owner, his authorized employee or agent of any store or merchant, apprehending or detaining a person on or in the immediate vicinity of the premises of any store or merchant, for the purpose of investigation or questioning as to the ownership of any goods, wares or merchandise, shall have as a defense in any action, civil or criminal, that such detention of the person or persons was in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer or by the owner of the store or merchant, his authorized employee or agent, and that such peace officer, owner, employee or agent had probable cause to believe that the person so detained was committing or attempting to commit an offense as set forth in subsection (a) of this section. "Reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the store or merchant relative to ownership of the merchandise.

SECTION 10. That Section 18-6711A, Idaho Code, be, and the same is hereby amended to read as follows:

18-6711A. FALSE ALARMS -- COMPLAINTS -- REPORTS -- PENALTIES -- CIVIL DAMAGES. (a) Any person calling the number "911" for the purpose of making a false alarm or complaint and reporting false information which could or does result in the emergency response of any firefighting, police, medical or other emergency services shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to a fine of not to exceed ~~five hundred~~ one thousand dollars ($~~5~~1,000) or to a term of not to exceed one (1) year in the county jail, or to both such fine and imprisonment.

(b) In addition to the criminal penalties for violation of the provisions of this section, civil damages may be recovered from the person so convicted in an amount of three (3) times the amount necessary to compensate or reimburse the complainant for costs incurred, losses sus-

tained or other damages suffered in receiving, acting upon or responding to the false alarm, complaint or report. If the person so convicted is under the age of eighteen (18) years of age, the parent or legal guardian having legal custody of the minor may be jointly and severally liable with the minor for such civil damages as are imposed. Recovery from the parents or legal guardian shall not be limited by any other provision of law which limits the liability of a parent or legal guardian for the tortious or criminal conduct of a minor. A parent or guardian not having legal custody of the minor shall not be liable for civil damages imposed hereunder.

SECTION 11. That Section 18-6713, Idaho Code, be, and the same is hereby amended to read as follows:

18-6713. THEFT OF TELECOMMUNICATION SERVICES. (1) As used in this section:

(a) "Clone cellular telephone" or "counterfeit cellular telephone" is a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the telephone by the manufacturer by someone other than the manufacturer.

(b) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of creating a cloned cellular telephone. These materials include: scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned phone with a false electronic serial number and mobile identification number combination, a computer containing such software and lists of electronic serial number and mobile identification number combinations.

(c) "Electronic serial number" means the unique number that was programmed into a cellular telephone by its manufacturer which is transmitted by the cellular phone and used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(d) "EPROM" or "erasable programmable read-only memory" means an integrated circuit memory that can be programmed from an external source and erased, for reprogramming, by exposure to ~~ultra-violet~~ ultraviolet light.

(e) "Illegal telecommunications equipment" means any instrument, apparatus, equipment, or device which is designed or adapted, and otherwise used or intended to be used for the theft of any telecommunication service or for concealing from any supplier of telecommunication service or lawful authority the existence, place of origin, use or destination of any telecommunication.

(f) "Intercept" means to electronically capture, record, reveal or otherwise access the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver of the signals, by means of any instrument, device or equipment.

(g) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(h) "Possess" means to have physical possession or otherwise to

exercise dominion or control over tangible property.

(i) "Telecommunication service" means a service which, in exchange for a pecuniary consideration, provides or offers to provide transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection.

(2) It is unlawful intentionally to:

(a) Make illegal telecommunications equipment; or

(b) Sell, give, or furnish to another or advertise or offer for sale illegal telecommunications equipment; or

(c) Sell, give, or furnish to another or advertise or offer for sale any plans or instructions for making, assembling, or using illegal telecommunications equipment; or

(d) Use or possess illegal telecommunications equipment.

(3) It is unlawful intentionally to:

(a) Make clone cellular telephones; or

(b) Sell, give or furnish to another or advertise or offer for sale clone cellular telephones; or

(c) Sell, give or furnish to another or advertise or offer for sale any plans or instructions for making, assembling, or using clone cellular telephones; or

(d) Use or possess illegal cloning paraphernalia; or

(e) Use a clone cellular telephone or counterfeit telephone to facilitate the commission of a felony.

(4) It is theft of telecommunications services to use, receive, or control telecommunications services without paying the pecuniary consideration regularly charged by the supplier of the telecommunication services used, received or controlled.

(a) Actual knowledge by the supplier of the telecommunication services that a person is or has been using, receiving or controlling the services shall not be a defense to the crime of theft of telecommunication services.

(5) A person who violates the provisions of subsection (2)(d) of this section commits a crime and shall be punished as follows:

(a) The first conviction shall be a misdemeanor, which shall be punished by a fine not to exceed ~~three hundred~~ one thousand dollars ($~~3~~1,000) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment.

(b) Conviction of a second or subsequent violation shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

(6) A person who violates the provisions of either subsections (2)(a), (b) or (c) of this section commits a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

(7) A person who violates the provisions of subsection (3) of this section commits a felony.

(8) In a prosecution for violation of the provisions of subsection (2), (3) or (4) of this section, the element of intent may be established by proof that the defendant obtained such services by any of the following means:

(a) By use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information;

(b) Without the consent of the supplier of the telecommunication services, the installation, connection, or alteration of any equipment, cable, wire, antenna or facilities capable of either physically, inductively, acoustically, or electronically enabling a person to use, receive or control telecommunication services without paying the regular pecuniary charge;

(c) By any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device, or means; or

(d) By making, assembling, or possessing any instrument, apparatus, equipment, or device or the plans or instructions for the making or assembling of any instrument, apparatus, equipment, or device which is designed, adapted, or otherwise used or intended to be used to avoid the lawful charge, in whole or in part, for any telecommunications service by concealing the use, existence, place of origin, or destination of any telecommunications.

(9) The supplier of telecommunication services which is directly affected by the commission of any of the acts prohibited under subsections (2), (3) and (4) of this section shall, regardless of whether there was a criminal conviction, have a civil cause of action against the person who commits any of the prohibited acts. The prevailing party shall be awarded all reasonable costs of litigation~~,~~ including, but not limited to, attorney's fees and court costs. If the supplier prevails, he shall recover additionally:

(a) Actual damages; or

(b) Liquidated damages of ten dollars ($10.00) per day for each day of the violation or five hundred dollars ($500), whichever is greater; or

(c) If actual damages are greater than five hundred dollars ($500), and, if proven, punitive damages.

(10) Nothing in this section shall be construed to make unlawful the interception or receipt by any person or the assisting, including the manufacture or sale, of such interception or receipt, of any satellite cable programs for private viewing as defined and specifically permitted under the "Cable Communications Policy Act of 1984."

SECTION 12. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. (1)~~.~~ Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall ~~wilfully~~ willfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real 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, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars ($25.00) and not more than ~~three hundred~~ one thousand dollars ($1,000) or by both such fine and imprisonment. 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 or notices are posted at such points of access.

As used in this subsection and in section 18-7008, Idaho Code: "enters," "entry" and "entering" mean going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(2)~~.~~ No motor vehicle shall be willfully or intentionally driven into, upon, over or through any private land actively devoted to cultivated crops without the consent of the owner of the land or the tenant, lessee or agent of the owner of the land actively devoted to cultivated crops. Violation of the provisions of this section shall be a misdemeanor. For the purpose of this subsection, motor vehicle shall be defined as set forth in sections 49-114 and 49-123, Idaho Code. Land actively devoted to cultivated crops shall be defined as land that is used to produce field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

SECTION 13. That Section 18-8001, Idaho Code, be, and the same is hereby amended to read as follows:

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in actual physical control of any motor vehicle upon the highways of this state with knowledge or who has received legal notice pursuant to section 49-320, Idaho Code, that his driver's license, driving privileges or permit to drive is revoked, disqualified or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or permit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or suspension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized source, that his license, driving privileges or permit to drive was revoked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his license, driving privileges or permit to drive was mailed by first class mail to his address pursuant to section 49-320, Idaho Code, as shown in the transportation department records, and he failed to receive the notice or learn of its contents as a result of his own unreasonable, intentional or negligent conduct or his failure to keep the transportation department apprised of his mailing address as required by section 49-320, Idaho Code; or

(d) He has knowledge of, or a reasonable person in his situation exercising reasonable diligence would have knowledge of, the existence of facts or circumstances which, under Idaho law, might have caused the revocation, disqualification or suspension of his license, driving privileges or permit to drive.

(3) Any person who pleads guilty to or is found guilty of a viola-

tion of subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than two (2) days, and may be sentenced to not more than six (6) months, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed ~~five hundred~~ one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(4) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of not less than twenty (20) days, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during the first thirty (30) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(5) Any person who has pled guilty to or been found guilty of more than two (2) violations of the provisions of subsection (1) of this section within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, and may be sentenced to

not more than one (1) year; provided, however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed three thousand dollars ($3,000); and

(c) Shall have his driving privileges suspended by the court for an additional two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under chapter 5, title 20, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005, 18-8004A, 18-8004C or 18-8006, Idaho Code, and not in lieu thereof.

(8) For purposes of this section, the offenses referred to in subsections (3)(a), (4)(a) and (5)(a) of this section are:

(a) Section 18-1501(3), Idaho Code, transporting a minor in a motor vehicle while under the influence;

(b) Section 18-4006(3), Idaho Code, vehicular manslaughter;

(c) Section 18-8001, Idaho Code, driving without privileges;

(d) Section 18-8004, Idaho Code, driving under the influence of alcohol, drugs or other intoxicating substances;

(e) Section 18-8004C, Idaho Code, excessive alcohol concentration;

(f) Section 18-8006, Idaho Code, aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances;

(g) Section 18-8007, Idaho Code, leaving the scene of an accident resulting in injury or death;

(h) Section 49-1229, Idaho Code, required motor vehicle insurance;

(i) Section 49-1232, Idaho Code, certificate or proof of liability insurance to be carried in motor vehicle;

(j) Section 49-1401, Idaho Code, reckless driving;

(k) Section 49-1404, Idaho Code, eluding a police officer;

(l) Section 49-1428, Idaho Code, operating a vehicle without liability insurance;

or any substantially conforming foreign criminal violation.

(9) In no event shall a person be granted restricted driving privileges unless the person shows proof of liability insurance or other proof of financial responsibility, as provided in chapter 12, title 49, Idaho Code.

SECTION 14. That Section 31-714, Idaho Code, be, and the same is hereby amended to read as follows:

31-714. ORDINANCES -- PENALTIES. The board of county commissioners may pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein, and may enforce obedience to such ordinances with such fines or penalties, including infraction penalties, as the board may deem proper; provided, that the punishment of any offense shall be by fine of not more than ~~three hundred~~ one thousand dollars ($~~3~~1,000) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

SECTION 15. That Section 50-302, Idaho Code, be, and the same is hereby amended to read as follows:

50-302. PROMOTION OF GENERAL WELFARE -- PRESCRIBING PENALTIES. (1) Cities shall make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry. Cities may enforce all ordinances by fine, including an infraction penalty, or incarceration; provided, however, except as provided in subsection (2) of this section, that the maximum punishment of any offense shall be by fine of not more than ~~three--hundred~~ one thousand dollars ($~~3~~1,000) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(2) Any city which is participating in a federally mandated program, wherein penalties or enforcement remedies are required by the terms of participation in the program, may enforce such requirements by ordinance, to include a criminal or civil monetary penalty not to exceed one thousand dollars ($1,000), or imprisonment for criminal offenses not to exceed six (6) months, or to include both a fine and imprisonment for criminal offenses.

Approved April 12, 2005.

CHAPTER 360
(H.B. No. 334)

AN ACT

RELATING TO MENTAL HEALTH COURT FUNDS; AMENDING SECTION 1-1625, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO PROVIDE FOR THE DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND, TO REFERENCE MENTAL HEALTH COURTS, TO DELETE LANGUAGE REFERENCING DRUG COURT TREATMENT AND SUPERVISION AND TO PROVIDE FOR THE USE OF MONEYS; AMENDING SECTION 19-4705, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE PAYMENT, DISPOSITION AND APPORTIONMENT OF FINES AND FOR-

FEITURES; AND AMENDING SECTION 23-217, IDAHO CODE, TO PROVIDE A REFERENCE TO THE DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND.

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

SECTION 1. That Section 1-1625, Idaho Code, be, and the same is hereby amended to read as follows:

1-1625. DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND. There is hereby created in the office of the state treasurer a special fund to be known as the drug court, mental health court and family court services fund. Moneys deposited into the fund pursuant to sections 19-4705 and 23-217, Idaho Code, subject to appropriation by the legislature, shall be used by the supreme court for the operations of drug courts and mental health courts, including drug testing, ~~drug court~~ substance abuse treatment and supervision, mental health assessment, treatment and supervision, and related court programs, as provided in chapter 56, title 19, Idaho Code, ~~and~~ for the purpose of assisting children and families in the courts, as provided in chapter 14, title 32, Idaho Code, and for other court services as provided by statute.

SECTION 2. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (1) Except as otherwise provided in subsection (2) of this section:

(a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act. Other existing laws regarding the disposition of fines and forfeitures are hereby repealed to the extent such laws are inconsistent with the provisions of this act except as provided in section 49-1013(3), Idaho Code.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned two and one-half percent (2 1/2%) to the state treasurer for deposit in the state general account, ten percent (10%) to the search and rescue account, twenty-two and one-half percent (22 1/2%) to the district court fund and sixty-five percent (65%) to the fish and game fund.

(c) Fines and forfeitures remitted for violations of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, forty-five percent (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half percent

(22 1/2%) to the district court fund and twenty-two and one-half percent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this act shall be apportioned ten percent (10%) to the state treasurer of which ninety percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten percent (10%) to the state treasurer of which ninety

percent (90%) shall be deposited to the state general fund and ten percent (10%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the general fund of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred percent (100%) into the highway distribution account.

(2) Any fine or forfeiture remitted for any misdemeanor violation for which an increase in the maximum fine became effective July 1, 2005, shall be apportioned as follows:

(a) Any funds remitted, up to the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be apportioned according to the applicable provisions of subsection (1) of this section; and

(b) Any other funds remitted, in excess of the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be remitted to the state treasurer and shall be deposited in the drug court, mental health court and family court services fund as set forth in section 1-1625, Idaho Code.

(~~2~~3) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

SECTION 3. That Section 23-217, Idaho Code, be, and the same is hereby amended to read as follows:

23-217. SURCHARGE ADDED TO PRICE OF GOODS SOLD -- COLLECTION AND REMISSION BY SUPERINTENDENT. (1) The superintendent of the state liquor dispensary is hereby authorized and directed to include in the price of goods hereafter sold in the dispensary, and its branches, a surcharge equal to two percent (2%) of the current price per unit computed to the nearest multiple of five cents (5¢).

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

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

Approved April 12, 2005.

CHAPTER 361
(H.B. No. 362)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AND AUTHORIZING THE USE OF TAX ANTICIPATION NOTES.

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

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:	$17,548,500
(1) Alterations and Repairs	
(2) Asbestos Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Building Demolition	
(6) Capitol Mall Maintenance	
B. COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:	$ 2,200,000
(1) Facility Renovation	
C. IDAHO STATE HISTORICAL SOCIETY:	
(1) State Museum Addition -- Phase 2	$ 450,000
(2) Idaho History Center -- Fixtures	115,000
TOTAL	$ 565,000
D. DEPARTMENT OF CORRECTION:	$ 745,400
(1) Low-Cost Inmate Housing	
GRAND TOTAL	$21,058,900

SECTION 2. It is legislative intent that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance.

SECTION 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

Approved April 12, 2005.

CHAPTER 362
(H.B. No. 373, As Amended)

AN ACT

RELATING TO WATER; TO PROVIDE LEGISLATIVE FINDINGS; TO AUTHORIZE THE IDAHO WATER RESOURCE BOARD TO TAKE SPECIFIED ACTION TO PLAN, FINANCE, ACQUIRE, ESTABLISH, OPERATE AND MAINTAIN A PROGRAM OR PROJECTS TO ENHANCE WATER SUPPLIES AND REDUCE DEMAND FOR WATER AND TO PROVIDE THAT SPECIFIED ACTIONS ARE DECLARED TO BE IN THE PUBLIC INTEREST; AMENDING SECTION 42-1740, IDAHO CODE, TO PROVIDE THAT PARTICULAR REVENUE BONDS MAY BE ISSUED AND SOLD FOR THE ACQUISITION OF WATER RIGHTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-1753, IDAHO CODE, TO PROVIDE THAT CERTAIN REVENUES COLLECTED BY OR ON BEHALF OF WATER USER ENTITIES AND REVENUES RECEIVED FROM THE LEASE OF WATER RIGHTS SHALL BE PLACED IN THE REVOLVING DEVELOPMENT FUND; AMENDING SECTION 42-1754, IDAHO CODE, TO PROVIDE THAT THE IDAHO WATER RESOURCE BOARD REVOLVING DEVELOPMENT FUND SHALL BE ALLOCATED TO THE BOARD FOR PAYMENT OF COSTS ASSOCIATED WITH THE ISSUANCE AND REPAYMENT OF THE BOARD'S REVENUE BONDS AND TO MAKE A TECHNICAL CORRECTION; TO PROVIDE FOR BROAD CONSTRUCTION; TO PROVIDE FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE FINDINGS. (1) Water users relying upon surface water and ground water supplies in many parts of Idaho, including the Snake River Basin, which encompasses a large portion of the state, are presently experiencing or may experience water shortages due to a combination of factors, including reduced aquifer recharge due to changes in surface water irrigation practices, increased ground water withdrawals, and prolonged drought conditions.

(2) It is essential that the state provide a reasonable degree of certainty and assistance in water resource management, water project funding, and water rights administration for the benefit and safeguard-

ing of its citizens and for the benefit and safeguarding of the state and local economies that rely upon the diversion and use of water for their viability.

(3) The legislature is determined to assist in achieving long-term stability in water supplies for the well-being of our citizens by encouraging the Water Resource Board to utilize its constitutional and statutory authorities to finance water projects designed both to enhance available water supplies and reduce demands upon our water resources in a manner that is protective of individual rights and promotes the best interests of our citizens.

SECTION 2. IDAHO WATER RESOURCE BOARD AUTHORIZATION. The Idaho Water Resource Board is authorized to take all actions necessary in accordance with existing law to plan, finance, acquire, establish, operate and maintain a program or projects to enhance water supplies and reduce demand for water through the financing of water rights acquisitions and managed recharge projects, to option, purchase, acquire, own, sell, exchange, lease, rent, and maintain water rights and other property deemed necessary or proper for such program or projects, to negotiate and enter into contracts for the acquisition or conveyance of water rights or interests therein, including to provide mitigation by the holders of junior-priority ground water rights for the benefit of the holders of senior-priority surface water rights, to issue and sell revenue bonds under the provisions of Sections 42-1739 through 42-1749, Idaho Code, pledging thereto the revenues which the board shall derive from such program or project, in order to pay its costs of planning, financing, acquisition, establishment, operation and maintenance of such program or projects, and to deposit and withdraw program moneys from the Water Resource Board Revolving Development Fund received from appropriations, the sale of bonds, ground water districts, or from other sources, under the provisions of Sections 42-1750 through 42-1758, Idaho Code. All moneys paid or property supplied by the Idaho Water Resource Board for the purpose of carrying out the provisions of this act are hereby declared to be for water projects which are deemed to be in the public interest.

SECTION 3. That Section 42-1740, Idaho Code, be, and the same is hereby amended to read as follows:

42-1740. PURPOSES. All revenue bonds authorized under the terms of this act may be issued and sold from time to time and in such amounts as ~~is~~ are deemed necessary to provide sufficient funds for carrying out all its powers and, without limiting the generality thereof, shall include the following: acquisition of water rights, rehabilitation and repair of existing irrigation projects and irrigation facilities, and construction, maintenance, repair and operation of water projects, engineering and other costs for investigation and promotion of water projects, fiscal and legal expenses, cost of issuance of bonds including printing and advertising expenses, the establishment of bond reserves, and payment of interest on bonds.

SECTION 4. That Section 42-1753, Idaho Code, be, and the same is hereby amended to read as follows:

42-1753. SOURCE OF FUND. Funds borrowed from the revolving development fund, together with interest due thereon, shall be repaid to the board and placed in the revolving fund together with receipts and revenues of any type and nature derived from any project constructed, operated, or maintained, in whole or in part, with moneys from the revolving fund, revenues received over and above the cost of projects financed by revenue bonds, revenues collected by or on behalf of water user entities for the purpose of repaying indebtedness under applicable statutory authority, revenues received from the sale of state land acquired by the board for water projects, surplus revenues from the sale of Carey Act (Title 43 USCA s. 641) lands, revenues received from the lease of water rights, fees received from water deliveries which are in excess of costs on projects sponsored by the board, gifts or grants from any source when the same are made for purposes consistent with those for which the revolving fund is established, and moneys from any other appropriate source.

SECTION 5. That Section 42-1754, Idaho Code, be, and the same is hereby amended to read as follows:

42-1754. ALLOCATION OF FUND. The Idaho water resource board revolving development fund shall be allocated for use:

(a) To the board for a project which it deems to be "in the public interest" and which, in its opinion, further implements any extant Idaho state water plan, in such amounts as are necessary for preparation of a feasibility study of the project, engineering services in preparing designs and specifications, and for construction of the project.

(b) As loans from the revolving development fund which may be approved by the board and made to irrigation districts, canal or irrigation companies, water users' associations, municipal or private corporations, or, in special cases when approved by the board, to individuals to finance project costs, provided, however, that no loans shall be made to finance feasibility studies except as a part of overall project costs.

(c) To establish reserve accounts or guarantee funds in the state treasury to aid in the funding of water projects. Interest earned on such moneys invested by the state treasurer shall be paid into the water resource board revolving development ~~account~~ fund.

(d) To the board to finance joint ventures for project construction with federal agencies, neighboring states, legal subdivisions of the state, private corporations, or other organizations, and including the costs of feasibility studies, investigations, and other preparatory expenses, for purposes consistent with those for which the fund is established, and the board is authorized to use the fund for these purposes.

(e) To the board to finance feasibility studies, investigations, and other preparatory expenses for projects it intends to fund through the sale of revenue bonds or through use of funds from other sources.

(f) To the board for payment of costs associated with the issuance and repayment of the board's revenue bonds.

SECTION 6. CONSTRUCTION. The provisions of this act shall be construed broadly to effectuate the stated purposes of the act.

SECTION 7. 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 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 12, 2005.

CHAPTER 363
(H.B. No. 374, As Amended)

AN ACT

RELATING TO WATER; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-620, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL CREATE OR MODIFY CERTAIN WATER DISTRICTS, TO PROVIDE THAT BEGINNING IN THE YEAR 2006 SPECIFIED COSTS SHALL BE INCLUDED IN WATER DISTRICT BUDGETS, TO PROVIDE FOR THE APPORTIONMENT OF SUCH COSTS BETWEEN WATER DISTRICTS, TO PROVIDE THAT AT ANNUAL MEETINGS CERTAIN WATER DISTRICTS SHALL SELECT A SPECIFIED NUMBER OF WATER USER REPRESENTATIVES TO SERVE ON AN ADVISORY COMMITTEE, TO PROVIDE FOR THE APPORTIONMENT OF ADVISORY COMMITTEE MEMBERS, AND TO PROVIDE A MAXIMUM AMOUNT FOR CERTAIN DEPARTMENT COSTS TO BE INCLUDED IN WATER DISTRICT BUDGETS.

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

SECTION 1. That Chapter 6, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-620, Idaho Code, and to read as follows:

42-620. ADDITIONAL WATER DISTRICT EXPENSES RELATING TO COSTS OF THE DEPARTMENT OF WATER RESOURCES FOR ADMINISTRATION OF WATER RIGHTS ON THE EASTERN SNAKE RIVER PLAIN. (1) The director of the department of water resources shall create or modify water districts pursuant to section 42-604, Idaho Code, to administer all water rights from water sources hydraulically connected to the Eastern Snake Plain Aquifer (ESPA). In adopting a budget under section 42-612, Idaho Code, the water users in each such water district, beginning in 2006, shall include the department's costs for monitoring conditions of the ESPA, updating the ESPA ground water model, updating surface water modeling tools, and updating accounting for water rights. The department's costs shall be apportioned between water districts based on the amount of water delivered in the same manner as provided in section 42-612, Idaho Code.

(2) At its annual meeting, each water district distributing water among rights from water sources hydraulically connected to the ESPA shall select one (1) or more water user representative(s) from within the district to serve on an advisory committee to the director of the department of water resources for purposes of implementing the provi-

sions of this section. The number of water users to be selected to serve on the advisory committee from each water district shall be apportioned based on the amount of water delivered in each water district.

(3) The total amount of the department's costs to be included pursuant to subsection (1) of this section shall not exceed one million two hundred thousand dollars ($1,200,000) in 2005 dollars, multiplied by the inflation factor for each year as determined by the joint finance-appropriations committee of the legislature.

Approved April 12, 2005.

CHAPTER 364
(H.B. No. 376)

AN ACT

RELATING TO COUNTY-BASED INTERMODAL COMMERCE AUTHORITIES; AMENDING SECTION 70-2203, IDAHO CODE, TO PROVIDE FOR THE CREATION OF AN INDEPENDENT PUBLIC BODY TO BE KNOWN AS THE LOCAL COUNTY-BASED INTERMODAL COMMERCE AUTHORITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 70-2203, Idaho Code, be, and the same is hereby amended to read as follows:

70-2203. ESTABLISHMENT AND ABOLISHMENT. Any county, hereinafter referred to as a governing body, may, after a public hearing, by resolution or ordinance of its governing body, create an independent public body, corporate and politic, to be known as a local county-based intermodal commerce authority. Any county after establishment of an intermodal authority may, after a public hearing, by resolution or ordinance abolish the county-based intermodal commerce authority. A county-based intermodal commerce authority shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. The resolution or ordinance creating an authority shall include provisions for governance and how the authority shall conduct its affairs. The board of directors shall consist of no less than three (3) members.

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 12, 2005.

CHAPTER 365
(H.B. No. 388)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2006.

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

SECTION 1. In addition to any other appropriation provided by law, there is hereby appropriated to the Supreme Court the following amounts from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:	
ISTARS Technology Fund	$1,500,000
Guardianship Pilot Project Fund	75,000
TOTAL	$1,575,000

Approved April 12, 2005.

CHAPTER 366
(H.B. No. 393)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR DRUG COURTS, FAMILY COURT SERVICES, AND MENTAL HEALTH COURTS FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR COMMUNITY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2006; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AN INTERBRANCH AGREEMENT BETWEEN THE IDAHO SUPREME COURT AND THE DEPARTMENT OF HEALTH AND WELFARE; AND AUTHORIZING THE DEPARTMENT OF HEALTH AND WELFARE TO MAXIMIZE FEDERAL FUND PARTICIPATION IN THE TREATMENT OF ELIGIBLE PERSONS THROUGH THE MENTAL HEALTH COURTS.

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

SECTION 1. In addition to any other appropriation provided by law, there is hereby appropriated $1,200,000 from the Court Services Fund to the Supreme Court for drug courts, family court services and mental health courts for the period July 1, 2005, through June 30, 2006.

SECTION 2. In addition to any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for Community Mental Health Services the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Court Services Fund	$168,700	$ 98,000	$266,700
Cooperative Welfare Fund (Federal)	53,100	17,300	70,400
TOTAL	$221,800	$115,300	$337,100

SECTION 3. It is hereby declared to be the intent of the Legislature that the Department of Health and Welfare negotiate and enter into an interbranch agreement with the Idaho Supreme Court concerning the development of treatment options for mental health court participants as funded in Section 2 of this act. Issues that should be covered in the agreement include a description of treatment services, notification and discharge communication, treatment and referral criteria, confidentiality issues, frequency and type of client contact, assessment criteria, provisions for periodic review and modification, and other relevant information as determined by the parties. The Department of Health and Welfare shall continue, through its membership on the Drug Court and Mental Health Court Coordinating Committee, as authorized by Section 19-5606, Idaho Code, to participate and provide guidance in the decision-making and the formulation of recommendations to the Supreme Court on the statewide implementation of mental health courts.

SECTION 4. The Department of Health and Welfare is authorized to recognize the state funds provided for in this act as part of the statewide cost allocation process, in order to maximize federal fund participation in the treatment of eligible persons through the mental health courts.

Approved April 12, 2005.

CHAPTER 367
(H.B. No. 394)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5201, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 42-5210, IDAHO CODE, TO PROVIDE FOR VOTES OF CITY GOVERNMENTS; AMENDING SECTION 42-5212, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-5214, IDAHO CODE, TO PROVIDE THAT CERTAIN GROUND WATER IRRIGATORS SHALL BE MEMBERS OF GROUND WATER DISTRICTS AND SUBJECT TO CERTAIN ASSESSMENTS, RIGHTS AND RESPONSIBILITIES, TO PROVIDE FOR ORDERS OF THE BOARD RELATING TO INCLUSION OF CERTAIN GROUND WATER IRRIGATORS IN GROUND WATER DISTRICTS, TO PROVIDE FOR NOTICE OF HEARING, TO PROVIDE FOR HEARING, TO PROVIDE FOR OBJECTIONS TO INCLUSION, TO PROVIDE FOR THE CERTIFICATION AND FILING OF ORDERS OF INCLUSION, TO PROVIDE FOR CERTAIN APPEALS, TO PROVIDE FOR CONCLUSIVENESS OF ORDERS OF INCLUSION, TO PROVIDE THAT CERTAIN GROUND WATER IRRIGATORS INCLUDED AS MEMBERS UPON ORDER OF THE BOARD SHALL BE LIABLE FOR SPECIFIED COSTS OF THE DISTRICT, TO PROVIDE A CORRECT CODE REFERENCE, AND TO PROVIDE THAT CERTAIN PERSONS WHO BECOME ENTITLED TO APPROPRIATE OR WHO APPROPRIATE GROUND WATER AFTER THE FORMATION OF A GROUND WATER DISTRICT SHALL BE DEEMED INCLUDED IN THE DISTRICT AND SUBJECT TO ASSESSMENTS AS OF A PARTICULAR DATE; AMENDING SECTION 42-5219, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 42-5220, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 42-5221, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 42-5222, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 52, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-5219, IDAHO CODE, TO PROVIDE FOR DIRECTORS AT LARGE; AMENDING SECTION 42-5224, IDAHO

CODE, TO AUTHORIZE GROUND WATER DISTRICT BOARDS OF DIRECTORS TO INCUR SPECIFIED INDEBTEDNESS ON BEHALF OF THE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-5233, IDAHO CODE, TO PROVIDE THAT THE TERM FOR INDEBTEDNESS RELATING TO THE FUNDING OF MITIGATION PLANS SHALL NOT EXCEED THIRTY YEARS; AMENDING SECTION 42-5242, IDAHO CODE, TO PROVIDE THAT DELINQUENT ASSESSMENT LISTS SHALL BE DULY ACKNOWLEDGED BY GROUND WATER DISTRICT TREASURERS AND TO PROVIDE REQUIREMENTS FOR THE TREASURER RELATING TO PAYMENTS IN FULL OF DELINQUENT ASSESSMENTS AND PENALTIES; AMENDING SECTION 42-5244, IDAHO CODE, TO PROHIBIT THE PARTICIPATION IN MITIGATION PLANS FOR NONPAYMENT OF CERTAIN MITIGATION COSTS WHEN DUE UNTIL PAID IN FULL, TO REQUIRE GROUND WATER DISTRICTS TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES WITH A REPORT OF PAST DUE MITIGATION COSTS, TO AUTHORIZE THE DIRECTOR TO REQUIRE GROUND WATER DISTRICTS TO PROVIDE CERTAIN ACCOUNTINGS AND TO REQUIRE GROUND WATER DISTRICTS TO INFORM THE DIRECTOR IMMEDIATELY UPON PAYMENT OF PAST DUE MITIGATION COSTS; AMENDING SECTION 42-5245, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ANNEXATION OF THE LANDS AND/OR FACILITIES OF CERTAIN USERS OF GROUND WATER INTO GROUND WATER DISTRICTS; AMENDING SECTION 42-5251, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR PETITIONS FOR EXCLUSION OF LANDS AND TO PROVIDE REQUIREMENTS RELATING TO ACTIONS ON PETITIONS FOR EXCLUSION OF LANDS BY DISTRICT BOARDS; AMENDING SECTION 42-5253, IDAHO CODE, TO REVISE PROVISIONS AND REQUIREMENTS RELATING TO ORDERS OF EXCLUSION OF LANDS FROM GROUND WATER DISTRICTS; AMENDING SECTION 42-5256, IDAHO CODE, TO PROVIDE FOR FILING OF ANY DECISIONS OR ORDERS IN THE OFFICE OF SPECIFIED COUNTY RECORDERS; AMENDING SECTION 42-5259, IDAHO CODE, TO AUTHORIZE GROUND WATER DISTRICT BOARDS TO COLLECT PROPORTIONAL SHARES OF COSTS INCURRED UNDER MITIGATION PLANS FROM HOLDERS OF CERTAIN GROUND WATER RIGHTS WHERE THE LEGISLATURE HAS PROVIDED BY LAW THAT SUCH HOLDERS ARE TO BE DEEMED NONMEMBER PARTICIPANTS IN THE DISTRICT SOLELY FOR MITIGATION PURPOSES AND TO PROVIDE GUIDELINES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-5201, Idaho Code, be, and the same is hereby amended to read as follows:

42-5201. SHORT TITLE -- TITLE OF DISTRICTS -- DEFINITIONS. This chapter is known as the "Ground Water District Act"; the districts created hereunder may be termed "ground water districts." When used in this chapter, and unless otherwise specified, the following terms shall be defined as follows:

(1) "Board" means the board of directors of a ground water district organized pursuant to this chapter.

(2) "Corporation" means a corporation or limited liability company.

(3) "County commission" means the board of county commissioners or any other governing board or authority for a county, as provided by law.

(4) "Department" means the Idaho department of water resources.

(5) "Director" means the director of the department of water resources.

(6) "District" means a ground water district established, or to be established, pursuant to this chapter.

(7) "Ground water" when used in this chapter means water under the surface of the ground whatever may be the geologic structure in which it is standing or moving, as provided in section 42-230(a), Idaho Code.

(8) "Ground water user" means the legal or beneficial owner of a ground water right, or the user of a ground water right pursuant to lease or contract of a ground water right to divert ground water of the state for a beneficial use or purpose, except for those diverting under rights used solely for domestic or stock use as defined by sections 42-111 and 42-1401A, Idaho Code, and provided, that for purposes of this chapter, the term ground water user shall not include any ground water right held by or on behalf of an Indian tribe or by tribal members for diversion and use within an Indian reservation, ground water rights held by the United States or ground water rights held by the state of Idaho. A ground water user is within the boundary of a ground water district if the well or other point of diversion used by that ground water user is within the boundary. A husband and wife together diverting ground water pursuant to right shall constitute one (1) ground water user. Ground water user includes both a ground water irrigator and a nonirrigator as defined in this chapter.

(9) "Ground water irrigator" means a ground water user holding a ground water right for irrigation purposes within a ground water district.

(10) "Land" or "lands," when used in the context of the property of a ground water user subject to district assessment under this chapter, means the real property where ground water is diverted or placed to beneficial use, including the facilities in or through which a ground water user makes beneficial use of ground waters.

(11) "Nonirrigator" means a ground water user holding a ground water right for commercial, municipal, or industrial purposes within a ground water district. A ground water user will be deemed a nonirrigator for purposes of this chapter even though: (a) some component of the user's ground water use is for irrigation; or (b) the user holds a ground water right for irrigation that is incidental to, or normally associated with, the user's commercial, municipal or industrial purpose.

(12) "Member" means a ground water user whose lands, facilities and/or water rights are included in and subject to a ground water district and its policies.

(13) "Mitigation plan" means a plan to prevent or compensate for material injury to holders of senior water rights caused by the diversion and use of water by the holders of junior priority ground water rights who are participants in the mitigation plan.

(14) "Person" means an individual, partnership, trust, estate, association, corporation, municipal corporation, the state of Idaho and any of its agencies, the United States, an Indian tribe, a public corporation, or any other public or private entity.

(15) "Public corporation" means counties, city and counties, cities, school districts, municipal water districts, irrigation districts, recharge districts, water districts, park districts, subdistricts, and all other governmental agencies of this state, having the power of levying or providing for the levy of general or special taxes or special assessments, and any political subdivision of another state of the United States.

(16) "Water right" means the legal right to divert and beneficially use the public waters of the state of Idaho where such right is evi-

denced by a decree, a permit or a license issued by the department, a beneficial or constitutional use right evidenced by an adjudication claim or claim based on section 42-243, Idaho Code, or a right based on federal law.

SECTION 2. That Section 42-5210, Idaho Code, be, and the same is hereby amended to read as follows:

42-5210. QUALIFICATIONS OF VOTERS FOR DISTRICT ELECTIONS. (1) Any ground water irrigator, and any nonirrigator who is a member for all purposes, within the proposed district shall be entitled to vote at any election held under the provisions of this chapter. The production of documentation of a water right as described in section 42-5201(16), Idaho Code, shall be sufficient evidence of ground water use for purposes of acting as an elector under this chapter. A representative of a ground water user shall be so designated by written proxy signed by the ground water user except that the vote of a state, city or county government may be cast by an elected or appointed official of the agency, or his designee. A corporation or partnership shall vote or otherwise act by a single individual who is authorized by the corporation or partnership to act on its behalf. A corporation or partnership must furnish the election officials a written designation stating the name of the individual who is authorized to vote and otherwise act for the corporation or partnership.

(2) Any ground water user who becomes a member of a district solely for mitigation purposes:

(a) Shall be entitled to vote only in those district elections concerning whether to incur indebtedness as specified in section 42-5234, Idaho Code; and

(b) Shall be ineligible to nominate directors or officers of the district, to serve in such capacities, or otherwise to participate in the governance of the district.

(3) A nonirrigator may participate in the election to determine whether a district will be formed only according to the following provisions:

(a) The nonirrigator shall notify the judges of election in writing at least ten (10) working days prior to the date of the election that such person supports the formation of the district, elects to become either a member for all purposes, or a member only for mitigation purposes as described in section 42-5214, Idaho Code, should it be formed, and, by such notice, casts its vote(s) in favor of formation.

(b) The notification shall contain a legal description of the land through which the nonirrigator places ground waters to beneficial use, a statement of the amount of such person's ground water right in cubic feet per second of diversions, and a copy of the ground water right documentation described in section 42-5201(16), Idaho Code.

(c) Once the judges of election have accepted the notification described in subsection (3)(b) of this section, they shall duly record the nonirrigator's vote(s) in favor of district formation in the canvassing of votes carried out pursuant to section 42-5213, Idaho Code.

(d) If the voting results in the formation of the district, the

nonirrigator who provided such notification thereafter shall be a full member or member for mitigation purposes of such district, whichever the case may be, and shall have all obligations, rights, and limitations attaching thereto.

(4) Each ground water user shall have one (1) vote for each cubic foot per second, or proportion thereof (rounded to the nearest tenth of a cubic foot per second), for which such ground water user holds a ground water right whose point of diversion is within the proposed district boundaries.

SECTION 3. That Section 42-5212, Idaho Code, be, and the same is hereby amended to read as follows:

42-5212. REGISTRATION NOT REQUIRED. No registration shall be required in any ground water district election, but in lieu thereof the judges of election shall require every elector to subscribe to an elector's oath as prerequisite to casting his vote, and such oath shall be the usual elector's oath with the following words added thereto, "I am a resident of ..... county, and I am a ground water user within the ..... (proposed) ground water district, or I am a representative of a ground water user within the ..... (proposed) ground water district" and present evidence of such ground water use pursuant to section 42-5201(16), Idaho Code, if they do not appear on the department's list as provided in section 42-5206, Idaho Code.

SECTION 4. That Section 42-5214, Idaho Code, be, and the same is hereby amended to read as follows:

42-5214. GROUND WATER USERS INCLUDED WITHIN THE DISTRICT -- NOTICE AND HEARING FOR MEMBERS INCLUDED IN DISTRICT AFTER MARCH 31, 2005 -- ORDER -- APPEAL AND CONCLUSIVENESS. (1) All ground water irrigators within the boundaries of the district ~~are~~ shall be members of the district and subject to assessments, rights and responsibilities established by the district as set forth in this chapter, notwithstanding any change in the ownership or control of the property of the water user, whether by way of transfer, exchange, conveyance, assignment, lease, or otherwise, to which the water right or rights used to determine assessments are appurtenant, unless excluded from the district pursuant to sections 42-5251 through 42-5257, Idaho Code. Except as provided in section 42-5276, Idaho Code, any ground water irrigator who previously was not a member as of March 31, 2005, shall be included as a member effective upon order of the board finding and confirming that inclusion of such ground water irrigator is in the best interests of the district and that such ground water irrigator shall receive benefits from such inclusion as a member. Such order may be made only after the board shall have caused a notice of such hearing to be published in the manner of notices of elections, which notice shall state that all persons interested in or that may be affected by such inclusion as a member shall appear at the time and place named in the notice and show cause in writing why they should not be included as a member. The board, at the time mentioned in said notice shall hear any objections to inclusion. The failure of any person to file with the district office an objection to inclusion as a member prior to the noticed hearing shall be taken as an assent on his part to such inclusion as a member of the district. Any order confirming

the inclusion of ground water irrigators as members of the district shall be certified by the board president and secretary and filed for record in the recorder's office of each county within which are situated any lands of the district and notice of the order shall be published in the manner of notices of elections. Any person who properly has filed an objection to inclusion as a member shall have the right to appeal to the district court of the county in which such person's ground water right is situated, provided such appeal shall be made within thirty (30) days from the date of publication of the order confirming such inclusion. After said thirty (30) day appeal period, no one shall have any cause or right of action to contest the legality, formality or regularity of said order of inclusion for any reason whatsoever, and thereafter, said inclusion and the constitution and validity of the district shall be considered valid and incontestable without limitation. Any ground water irrigator who previously was not a member of the district as of March 31, 2005, that is included as a member upon order of the board shall be liable for his proportionate share of all costs of the district incurred after such date, including his proportionate share of all bonded, warrant or other indebtedness incurred prior to March 31, 2005, but only the proportionate share of such prior indebtedness applicable to the period after March 31, 2005.

(2) All nonirrigators within the boundaries of the district who voted according to notice as provided in section 42-5210(3), Idaho Code, are members of the district as specified in such notice.

(3) A nonirrigator also may become a member of a district by providing, within sixty (60) days after the date on which the district is formed, written notice to the district board that the nonirrigator wishes to join the district either as a member for all purposes or as a member for mitigation purposes only. Upon providing such notice, the nonirrigator shall be either a member for all purposes or a member for mitigation purposes only, as specified in the notice, and shall be subject to assessment accordingly as provided in this chapter. After such sixty (60) day period, a nonirrigator may become a member of a district only through the annexation procedure described in sections 42-5245 through 42-5249, Idaho Code.

(4) Except as provided for municipal, commercial, industrial, federal and tribal ground water users in subsection (1) of this section, any person whose permit, license, or other entitlement to appropriate ground water was acquired after the formation of the district, or who appropriates ground water for uses not requiring a permit after the formation of the district, but qualifies as a ground water user under subsection (~~10~~8) of section 42-5201, Idaho Code, within the area of the district in all other respects, shall be deemed included within and subject to assessment by the district, if benefitted either directly or indirectly by the district as of the date the permit, license, or entitlement is acquired.

SECTION 5. That Section 42-5219, Idaho Code, be, and the same is hereby amended to read as follows:

42-52198A. WHEN ELECTION NOT REQUIRED. In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated thereby for each position to be filled, it

shall not be necessary to hold an election, and the board of directors shall, within five (5) days after expiration of the date for filing written nominations, declare such candidate elected as director. The procedure set forth in this section shall not apply to any other district election.

SECTION 6. That Section 42-5220, Idaho Code, be, and the same is hereby amended to read as follows:

42-52~~20~~18B. NOTICE OF ELECTION. The secretary of the district shall give notice of all elections in the district by posting the same in five (5) public places in each county in which a part of the district is situated and in the office of the board of directors at least four (4) weeks before the day of such election, or by publication of the notice once a week for four (4) successive weeks in a newspaper or newspapers published in each of said counties or in a newspaper of general circulation therein. Notices shall state the time of the election and the location of polling places within the district and the directors to be elected or other question to be voted upon, as the case may be.

SECTION 7. That Section 42-5221, Idaho Code, be, and the same is hereby amended to read as follows:

42-52~~21~~18C. CONDUCT OF ELECTIONS. The election shall be conducted as nearly as practicable in accordance with the general laws of the state; provided that no particular form of ballot shall be required and the provisions of the election laws as to the form and distribution of ballots shall not apply and each ballot must indicate the number of cubic feet per second associated with the ballot cast. The board of directors shall designate polling places in such number as it may deem necessary. At least ten (10) days before the holding of any election, the board shall appoint three (3) electors to serve as judges of election at each polling place. The judges shall perform the same duties as near as may be, as judges of election under the general laws of the state. Immediately after the election, the judges of election shall forward the official results to the secretary of the district.

SECTION 8. That Section 42-5222, Idaho Code, be, and the same is hereby amended to read as follows:

42-52~~22~~18D. CANVASS OF RETURNS -- DECLARATION OF WINNERS. On the first Monday after each election, or at a time designated by the board of directors, the board shall meet at its usual place of meeting and proceed to canvass the returns. By order entered on its minutes, the board shall declare elected the person or persons having the highest number of votes for each office.

SECTION 9. That Chapter 52, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-5219, Idaho Code, and to read as follows:

42-5219. DIRECTORS AT LARGE. In the event a district is divided into six (6) or fewer divisions, the district is authorized to elect one (1) to two (2) directors at large. Directors at large shall be elected

at the annual meeting of the district by a two-thirds (2/3) majority of the members present at the meeting. Every director at large elected pursuant to the provisions of this section shall be a ground water user in the district. Directors at large shall hold office for a term of two (2) years, or until their successors are elected and qualified. Provided however, that in no event shall a district have more than a total of seven (7) directors serving at any time whether elected pursuant to the provisions of section 42-5218, Idaho Code, or pursuant to this section.

SECTION 10. That Section 42-5224, Idaho Code, be, and the same is hereby amended to read as follows:

42-5224. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board shall, in addition to any other powers and duties provided in this chapter, and provided that nothing in this chapter shall abrogate or impair the right of any person to take any action necessary to acquire, protect, challenge or defend any water right, have the following powers and duties:

(1) To acquire, and/or construct, operate, control or use by appropriation, grant, purchase, bequest, devise, contract or lease works or facilities, water rights, water permits or licenses, well-drilling permits, wells, pipelines, ditches and any other real and personal property (including easements and rights-of-way) or contract entitlement within or without the district necessary or convenient to fully exercise its powers;

(2) To sell, lease, encumber, alienate, or otherwise dispose of works or facilities, water, water rights, wells, pipelines, ditches, reservoirs, recharge facilities, and any other real and personal property owned by the district within or without its boundaries, and to incur indebtedness on behalf of the district as specified in this chapter;

(3) To enter into contracts and agreements, cooperative and otherwise, including contracts with the United States of America and any of its agencies or instrumentalities, and tribes, and contracts with corporations, public or private, municipalities, or governmental subdivisions necessary or convenient to fully exercise its powers;

(4) To hire and retain agents, employees, engineers, hydrologists, geologists, and attorneys as shall be necessary and convenient to transact the district's business and to represent the district's interests;

(5) To levy assessments for the operation of the district and its programs;

(6) To represent district members, with respect to their individual water rights, in general water rights adjudications and other legal and administrative proceedings or before political bodies, provided that the board may levy assessments for these matters against only those members who have given written consent for the representation;

(7) To represent district members in proceedings or meetings of a water district established by the director of the department notwithstanding any provision to the contrary in chapter 6, title 42, Idaho Code. Provided however, that the board shall not be authorized to cast a vote in any proceeding or meeting of a water district established pursuant to chapter 6, title 42, Idaho Code, on behalf of any district member who has, prior to such proceeding or meeting, given written notice to the board and to the water district that such district member intends to vote on his own behalf, or on behalf of any district member who attends

such meeting or proceeding and intends to vote on his own behalf. The board shall provide a verified list of the water rights that it represents at any water district proceeding or meeting~~.~~;

(8) To appropriate, develop, store, and transport water within the state;

(9) To acquire stock in canal companies, water companies, and water users' associations;

(10) To invest any surplus money in the district treasury pursuant to the public depository law as contained in chapter 1, title 57, Idaho Code;

(11) To develop, maintain, operate and implement mitigation plans designed to mitigate any material injury caused by ground water use within the district upon senior water uses within and/or without the district;

(12) To finance the repair or abandonment of wells in the ground water district which have experienced or are experiencing declines in water level or water pressures because of reasons including, but not limited to, flow, leakage, and waste from improper construction, maintenance, and operation of wells;

(13) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for easements, rights-of-way, and other rights of access to property necessary to the exercise of the mitigation powers herein granted, both within and without the district;

(14) To sue and be sued, and be a party to suits, actions and proceedings;

(15) To enter into joint powers agreements and/or memoranda of understanding with other districts, governmental or quasi-public entities;

(16) To develop and acquire water rights for, and operate, aquifer storage or recharge projects;

(17) To monitor, measure, study, and implement programs in the interests of the district's members regarding the protection of ground water diversions, depth of water in wells, aquifer water levels and characteristics;

(18) To adopt and amend bylaws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district and to establish a fiscal year;

(19) To enter upon land to make surveys, locate district property, works, or facilities, and to otherwise conduct the affairs of the district;

(20) To make, record and report annually to the director sufficient measurements of diversions and water levels of district members to allow the district to be excluded from any water measurements district created pursuant to sections 42-705 through 42-715, Idaho Code~~.~~;

(21) To manage and conduct the affairs of the district and to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this ~~act~~ chapter.

SECTION 11. That Section 42-5233, Idaho Code, be, and the same is hereby amended to read as follows:

42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE REPAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan or plans for the district, the board of directors may, by resolution duly adopted and entered upon the minutes, incur indebtedness by contract with a money lending institution; provided however, that the term of such indebtedness shall not exceed ~~ten~~ thirty (~~10~~30) years. To secure the repayment of any indebtedness so incurred, the board shall levy assessments over the term of the indebtedness in amounts sufficient to repay the interest and principal as it falls due. Such assessments shall be levied in the manner and shall be subject to the limitations set forth in section 42-5232, Idaho Code, and may be levied only if the indebtedness has been approved at an election pursuant to sections 42-5234 through 42-5238, Idaho Code.

(2) Notwithstanding the provisions of subsection (1) of this section, the board of directors may, before the collection of the first assessment, incur indebtedness for the purpose of organization, or for any of the purposes of this chapter, and cause warrants of the district to issue therefor, provided that the total dollar amount of the warrants authorized to be issued shall not exceed one dollar ($1.00) for each two-hundredths (.02) of a cubic foot per second of ground water authorized to be diverted and used upon lands or facilities located within the district. Following the collection of the first assessment, the board of directors may at any time issue warrants of the district for the purpose of paying claims of indebtedness against the district, including salaries of officers and employees, not to exceed the district's anticipated revenue.

(3) The warrants herein authorized shall be in form and substance the same as county warrants or as nearly the same as may be practicable and shall be signed by the chairman and attested by the secretary of said board. All such warrants shall be presented by the holder thereof to the treasurer of the district for payment who shall endorse thereon the day of presentation for payment with the additional endorsement thereon, in case of nonpayment, that they are not paid for want of funds, and such warrants shall draw interest at a rate to be established by the board of directors from the date of their presentation to the treasurer for payment as aforesaid until such warrants are paid. No warrants shall be issued in payment of any indebtedness of such district for less than face or par value. It shall be the duty of the treasurer from time to time when sufficient funds are available for that purpose to advertise in a newspaper in the county in which the district is situated requiring the presentation to the treasurer for payment of as many of the outstanding warrants as are able to be paid. Ten (10) days after the first publication of said notice by the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two (2) weeks consecutively and said warrants shall be called in and paid in the order of their endorsement.

SECTION 12. That Section 42-5242, Idaho Code, be, and the same is hereby amended to read as follows:

42-5242. ENTRY OF DELINQUENT ASSESSMENTS -- FILING OF DELINQUENCY LIST. (1) On or before the 15th day of January of each year the treasurer shall enter the amount of all delinquent assessments upon the

assessment book, which entry shall be considered to be dated as of the first day of January. Such entry shall have the force and effect of a sale to the treasurer of the district as grantee in trust for the district of all property to which a lien has attached as a result of such unpaid assessments.

(2) The treasurer shall compile a list of such delinquency entries which shall contain the names of the persons or entities to whom the assessments were directed and the amount of such delinquent assessments together with the amount of the penalties to be added thereto. A certified copy of the delinquency list, duly acknowledged by the treasurer, shall be filed with the county recorder of each county in which the properties affected by such delinquent assessments are located, and the treasurer shall then provide by certified mail a notice of delinquency to each ground water user having a delinquent assessment.

(3) Upon the payment in full of any delinquent assessment and penalty that was entered on a recorded delinquency list, the treasurer shall file with the county recorder of each county in which the list of delinquent assessments was recorded an acknowledged notice that the delinquent assessment and any penalty owed has been paid in full. The treasurer shall file any notices of payment of delinquent assessments with the county recorders, as required, on at least a monthly basis.

SECTION 13. That Section 42-5244, Idaho Code, be, and the same is hereby amended to read as follows:

42-5244. PROHIBITION AGAINST PARTICIPATION IN MITIGATION PLAN WHEN SUBJECT TO DELINQUENT ASSESSMENT OR FOR NONPAYMENT OF OTHER MITIGATION COSTS. A ground water user who is delinquent in the payment of any assessment against his water use under this chapter, or who has failed to pay other mitigation costs owed to the district when due, is prohibited from being a participant in any mitigation plan until such delinquent assessment, or other past due amount owed for mitigation costs, is paid in full. The district shall provide the director a report of such delinquent assessments, or other past due mitigation costs, at the first of each month for purposes of enforcement. Prior to undertaking enforcement, the director may require from the district an accounting of the basis for the assessment and other mitigation costs and the apportionment of those assessments and costs among district members. The district shall inform the director immediately upon the payment of any such delinquent assessment, or other past due mitigation costs. This section shall be enforced by the watermaster within water districts established under chapter 6 of this title, and by the director pursuant to sections 42-351 and 42-1701B, Idaho Code, in areas outside of such water district.

SECTION 14. That Section 42-5245, Idaho Code, be, and the same is hereby amended to read as follows:

42-5245. PETITION FOR ANNEXATION OF LAND. Any ground water user, as defined in section 42-5201(8), Idaho Code, as well as any user of ground water for domestic or stock use as defined by sections 42-111 and 42-1401A, Idaho Code, may file with the board a petition in writing praying that the land and/or facilities listed under the ground water user's ground water right(s) may be annexed into the district. The peti-

tion shall contain a legal description of the lands and any other information the district may require, and the petitioner shall state under oath that petitioner holds the title to said lands. If the ground water user is a nonirrigator, the petition shall state if the ground water user is seeking to join the district solely to participate in the district's mitigation plan or other mitigation activities.

SECTION 15. That Section 42-5251, Idaho Code, be, and the same is hereby amended to read as follows:

42-5251. PETITION FOR EXCLUSION OF LANDS -- LANDS MAY REMAIN IN THE DISTRICT FOR MITIGATION PURPOSES. Any district member may file with the district board a petition requesting that the member's lands be excluded from the district. The petition may request that the lands either be excluded for all purposes or be excluded for all purposes except mitigation. The petition shall be signed by each petitioner, ~~but need not be acknowledged~~ and shall state that continued inclusion of the lands in the district is inappropriate or unwarranted:

(1) Because the diversions of ground water under the ground water users water right have no depletive effect on any water source, either individually or cumulatively when considered in conjunction with other similar diversions;

(2) Because the only ground water use associated with the lands sought to be excluded by the petition is a domestic or stock water use as defined by sections 42-111 and 42-1401A, Idaho Code;

(3) Because the exclusion of the lands will not impair the district's ability to repay debt or carry out mitigation plans;

(4) Because the exclusion is in the best interests of the district and its members; or

(5) For other compelling reasons.

The board shall consider the petition and, based on findings concerning such factors, the board shall grant or deny the petition within ninety (90) days of the date it is filed, unless the board, in its sole discretion, grants a hearing on the petition within such time period, in which case the board shall issue a final decision within sixty (60) days after the conclusion of the hearing. All costs incurred by the district in carrying out the exclusion proceeding shall be assessed as provided in section 42-5253, Idaho Code. A person purchasing land under a written contract shall be deemed to be the owner of that land for purposes of this section.

SECTION 16. That Section 42-5253, Idaho Code, be, and the same is hereby amended to read as follows:

42-5253. ORDER OF EXCLUSION. (1) ~~Upon receipt of a properly completed petition for exclusion,~~ In the event the district's board of directors grants a petition for exclusion, the board shall, by resolution, ~~shall~~ make an order forthwith excluding the lands described in the petition either for all purposes or for only those purposes not related to mitigation. No hearing is required prior to granting a petition for exclusion.

(2) At a minimum, the order of exclusion shall specify that:

(a) Lands excluded for all purposes shall not be a part of or be entitled to receive any benefits from the district;

(b) Lands excluded only for purposes not related to mitigation, shall continue to be part of the district for mitigation purposes only and shall be assessed for these purposes as provided under this chapter;
(c) Any excluded lands are subject to the requirements of section 42-5257, Idaho Code.
(d) When the petition is filed on or before December 1 in any calendar year, any assessment, other than those specified in section 42-5257, Idaho Code, against the land for any calendar year subsequent to the year in which the petition was filed shall not be valid and no lien for any such attempted assessment shall attach under section 42-5240, Idaho Code.

SECTION 17. That Section 42-5256, Idaho Code, be, and the same is hereby amended to read as follows:

42-5256. CHANGES TO BE FILED FOR RECORD. ~~The~~ Any decision and order of the board of directors or the district court, in case of appeal, excluding the petitioner's land and changing the boundaries of such ground water district shall be filed for record in the recorder's office of the county or counties within which are situated the lands of such ground water district.

SECTION 18. That Section 42-5259, Idaho Code, be, and the same is hereby amended to read as follows:

42-5259. PARTICIPATION BY NONMEMBER IN DISTRICT SOLELY FOR MITIGATION PURPOSES. (1) Upon written request from a ground water user who is not a member of a district, and regardless of whether such user is an irrigator, a district board of directors shall enter a contract with such nonmember pursuant to which the nonmember shall be allowed to participate fully in, and obtain all benefits of, any mitigation plan, purpose or activity the district currently has in force or is developing, provided that:
(~~1~~a) The board finds that the plan is likely to be effective in mitigating the effects of such nonmember's ground water use, and that including the nonmember within the mitigation plan's coverage will not impair the plan's effectiveness as to district members;
(~~2~~b) If the district's mitigation plan has been approved by the director, the board shall evaluate the contract request in accordance with any conditions of the district's mitigation plan which address equitable participation by ground water users who do not initially participate in such mitigation plan;
(~~3~~c) Before the contract may be effective, the board may collect from the nonmember a payment adequate to compensate the district for the nonmember's proportional share of the costs the district already has incurred in developing and implementing the mitigation plan;
(~~4~~d) The board may include in the contract a provision requiring the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for such nonmember's proportional share of those past or future costs of operating the district attributable to formulating or implementing the mitigation plan or plans in which the nonmember is participating;
(~~5~~e) The board may require the nonmember to provide security to

assure the payment of all assessments and charges related to the contract;

(6f) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties.

(2) If the legislature has provided by law that the holders of certain ground water rights not otherwise covered by a mitigation plan approved by the director of the department of water resources shall be deemed nonmember participants in the district solely for mitigation purposes, then the district may collect a proportional share of the costs incurred under the mitigation plan from the nonmember participants, as follows:

(a) The board may collect from each nonmember participant a payment adequate to compensate the district for the nonmember's proportional share of the past itemized costs the district has incurred in developing and implementing the mitigation plan;

(b) The board may require the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for the nonmember's proportional share of those past or future itemized costs of operating the district attributable to formulating or implementing the mitigation plan or plans in which the nonmember is participating;

(c) The board may require that the nonmember pay the amounts owed under this section before coverage under the mitigation plan is effective, provided the board has notified the nonmember by mail of the amount owed at least forty-two (42) days prior to the due date;

(d) As an alternative to immediate payment of the amount owed, the board may accept security from the nonmember to assure that payment of all costs and charges owed by the nonmember under this section shall be paid by a fixed later date;

(e) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties;

(f) The board shall have the right to collect any costs and charges due and unpaid under this section by civil action brought in the name of the district in any court of competent jurisdiction. In addition to the amount found due, together with interest and costs, the district also may recover such sum as the court may adjudge reasonable as attorney's fees in said action.

SECTION 19. 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 20. 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 12, 2005.

CHAPTER 368
(H.B. No. 92, As Amended in the Senate)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-2203, IDAHO CODE, TO REVISE STANDARDS RELATING TO SHOOTING PRESERVES AND TO PROVIDE FOR GRANDFATHER RIGHTS.

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

SECTION 1. That Section 36-2203, Idaho Code, be, and the same is hereby amended to read as follows:

36-2203. STANDARDS. (a) Each shooting preserve shall contain a minimum of one hundred sixty (160) acres in any tract of land (including water area, if any) and shall be restricted to not more than one thousand six hundred (1,600) acres (including water area, if any) in the event the land is leased by the licensee or four thousand (4,000) acres (including water area, if any) in the event the land is owned by the licensee. Tracts included in the preserve do not need to be contiguous. A licensee shall be granted only one (1) shooting preserve license. Multiple licenses shall not be used to circumvent the maximum acreage restriction.

(b) The tract or tracts of land concerned must be owned or leased by the licensee; must be adaptable to use as a game breeding and/or controlled shooting area; must not encompass any public land or limit any existing access to public land; must be of such nature that the game birds propagated and/or released thereon are not likely to become diseased and a menace to other wildlife; and the operation of a shooting preserve must be of such a nature as to not likely work a fraud upon persons paying a fee to hunt thereon.

(c) No license shall be granted for any shooting preserve, any portion of which is within one (1) mile of any state or federal park, wilderness area, refuge or wildlife management area operated by the state or federal government unless the commission finds that:

1. The state or federal park, wilderness area, refuge or wildlife management area is less than one hundred sixty (160) acres in size;
2. The state or federal park, wilderness area, refuge or wildlife management area is open to public hunting; and
3. Licensing the proposed shooting preserve will not affect the management of the state or federal park, wilderness area, refuge or wildlife management area.

(d) Any person who, on June 30, 2005, holds a license for the operation of a shooting preserve pursuant to the provisions of this chapter, shall be accorded "grandfather rights," and are therefore exempt from the prohibition against the tract or tracts of land constituting a preserve encompassing any public land or limiting any existing access to public land as provided for by this act. Notwithstanding the expansion of any preserve on or after July 1, 2005, this exemption shall apply

only to the tract or tracts of land constituting the licensed preserve on June 30, 2005. "Grandfather rights" shall be deemed to have been abandoned by any such license holder that fails to obtain a shooting preserve license renewal on an ongoing annual basis.

Approved April 13, 2005.

CHAPTER 369
(H.B. No. 306, As Amended, As Amended)

AN ACT

RELATING TO TAXATION AND TO THE ENACTMENT OF THE IDAHO CORPORATE HEADQUARTERS INCENTIVE ACT OF 2005; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE AN ADDITIONAL INCOME TAX INVESTMENT CREDIT FOR CERTAIN QUALIFIED INVESTMENTS AND LIMITATIONS THEREON, TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN REAL PROPERTY IMPROVEMENTS AND LIMITATIONS THEREON, TO PROVIDE AN ADDITIONAL NEW JOBS CREDIT FOR CERTAIN EMPLOYMENT AND LIMITATIONS THEREON, TO AUTHORIZE THE STATE TAX COMMISSION TO ADOPT ADMINISTRATIVE RULES RELATING TO S CORPORATIONS, PARTNERSHIPS, ESTATES AND TRUSTS, AND RELATING TO REORGANIZATIONS, MERGERS AND LIQUIDATIONS, TO ESTABLISH LIMITATIONS, TO PERMIT SHARING OF CREDITS AMONG TAXPAYERS INCLUDED IN A COMBINED REPORT OF INCOME, TO PERMIT CARRYOVERS OF UNUSED CREDITS, TO PROVIDE FOR RECAPTURE OF INCOME TAX CREDITS IN CASE OF FAILURE TO MEET TAX INCENTIVE CRITERIA, TO PROVIDE FOR A REBATE OF SALES AND USE TAXES PAID ON QUALIFIED PROJECTS AND TO PROVIDE FOR RECAPTURE OF THE REBATE IN CASE OF FAILURE TO MEET TAX INCENTIVE CRITERIA, TO PROVIDE FOR A REBATE OF CERTAIN PROPERTY TAXES PAID ON QUALIFIED PROJECTS AND TO PROVIDE LIMITATIONS THEREON, TO PROVIDE FOR RECAPTURE OF THE REBATE IN CASE OF FAILURE TO MEET TAX INCENTIVE CRITERIA AND TO PROVIDE FOR ADMINISTRATION BY THE STATE TAX COMMISSION; AMENDING SECTION 63-3067, IDAHO CODE, TO PROVIDE A CONTINUOUS APPROPRIATION OF INCOME TAX RECEIPTS TO FUND CERTAIN PROPERTY TAX REBATES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 63, Idaho Code, and to read as follows:

CHAPTER 29
THE IDAHO CORPORATE HEADQUARTERS INCENTIVE ACT OF 2005

63-2901. SHORT TITLE. This chapter shall be known and may be cited as "The Idaho Corporate Headquarters Incentive Act of 2005."

63-2902. DEFINITIONS. (1) The definitions contained in the Idaho income tax act, shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

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

(b) "Headquarters or administrative facilities" means facility or facilities, including related parking facilities, where corporate staff employees are physically employed, and where the majority of the company's services are handled either on a regional or national basis. Company services may include: accounts receivable and payable, accounting, data processing, distribution management, employee benefit plan, financial and securities accounting, information technology, insurance, legal, merchandising, payroll, personnel, purchasing/procurement, planning, reporting and compliance, tax, treasury, or other headquarters-related services.

(c) "Idaho income tax act" means chapter 30, title 63, Idaho Code.

(d) "Investment in new plant" means investment in headquarters or administrative facilities, that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the taxpayer, subject to Idaho income tax withholding whether or not any amounts are required to be withheld, covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, and who was eligible to receive employer provided coverage under a health benefit plan as described in section 41-4703, Idaho Code, during the taxable year. A person shall be deemed to be so employed if such person performs duties on a regular full-time basis.

(ii) The number of employees employed primarily within the project site by the taxpayer, during any taxable year for a taxpayer shall be the mathematical average of the number of such employees reported to the Idaho department of commerce and labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (e)(i) of this subsection (2). In the event the business is in operation for less than the entire taxable year, the number of employees of the taxpayer for the year shall be the average number actually employed during the months of operation, provided that the qualifications of paragraph (e)(i) of this subsection (2) are met.

(iii) Existing employees of the taxpayer who obtain new qualifying positions within the project site and employees transferred from a related taxpayer or acquired as part of the acquisition of a trade or business from another taxpayer within the prior twelve (12) months are not included in this definition unless the new position or transfer creates a net new job in Idaho.

(f) "Project period" means the period of time beginning at the earlier of a physical change to the project site or the first employment of new employees located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2005, and ending when the facilities constituting the project are placed in service, but no later than December 31, 2009.

(g) "Project site" means an area or areas at which headquarters and headquarters facilities are located and at which the tax incentive

criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the headquarters or administrative facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required by subsection (2)(j)(i) of this section is made at one (1) of the areas.

(iii) The project site must be identified and described to the commission by a taxpayer subject to tax under the Idaho income tax act, in the form and manner prescribed by the commission.

(h) "Qualified investment" shall be defined as in section 63-3029B, Idaho Code.

(i) "Recapture period" means:

(i) In the case of credits described in sections 63-2903 and 63-2904, Idaho Code, the same period for which a recapture of investment tax credit under section 63-3029B, Idaho Code, is required; or

(ii) In the case of credits described in section 63-2905, Idaho Code, five (5) years from the date the project period ends.

(j) "Tax incentive criteria" means a taxpayer meeting at a project site the requirements of both subparagraphs (i) and (ii) of this paragraph (j).

(i) During the project period, making capital investments in new plant of at least fifty million dollars ($50,000,000) at the project site.

(ii) During a period of time beginning on January 1, 2005, and ending at the conclusion of the project period:

1. Increasing employment at the project site by at least five hundred (500) new employees:

(A) Each of whom must earn at least twenty-four dollars and four cents ($24.04) per hour worked during the taxpayer's taxable year; or

(B) Each of whom is part of a group of five hundred (500) or more employees at the project site which group on average earns at least twenty-eight dollars and eighty-five cents ($28.85) per hour worked during the taxpayer's taxable year. Calculation of the group average earnings may not include amounts paid to any employee earning more than ninety-six dollars and fifteen cents ($96.15) or less than fifteen dollars and fifty cents ($15.50) per hour worked during the taxpayer's taxable year.

(C) Earnings calculated pursuant to subparagraph (ii) of this paragraph (j) shall include income upon which Idaho income tax withholding is required under section 63-3035, Idaho Code, but shall not include income such as stock options or restricted stock grants.

(D) For purposes of determining whether the increased employment threshold has been met, employment at the project site shall be determined by calculating the increase of such new employees reported

to the Idaho department of commerce and labor for employment security purposes over the employees so reported as of the beginning of the project period or no earlier than January 1, 2005, whichever is larger; and

2. Maintaining net increased employment in Idaho required by subparagraph (ii)1. of this paragraph (j) during the remainder of the project period.

(k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsection (2), means either:

(i) A single taxpayer; or

(ii) In the context of a unitary group filing a combined report under section 63-3027(t), Idaho Code, all members of a unitary group includable in a combined report for the tax years in which the credit provided for by this chapter may be claimed.

For all other purposes, the terms of section 63-3009, Idaho Code, and section 63-3027(t)(1), Idaho Code, apply to the meaning of "taxpayer."

63-2903. ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For taxable years beginning on or after January 1, 2005, and before December 31, 2009, and subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, in regard to qualified investments made after the beginning of the project period and before December 31, 2009, in lieu of the investment tax credit provided in section 63-3029B, Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of six percent (6%) of the amount of qualified investment made during a taxable year, wherever located within this state.

(2) The credit allowed by this section shall not be subject to the fifty percent (50%) limitation provided in section 63-3029B, Idaho Code.

(3) The credit allowed by this section shall not exceed five million dollars ($5,000,000) in any one (1) taxable year.

63-2904. REAL PROPERTY IMPROVEMENT TAX CREDIT. (1) For taxable years beginning on or after January 1, 2005, and before December 31, 2009, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of ten percent (10%) of the investment in new plant which is incurred during the project period applicable to the project site in which the investment is made.

(2) The credit allowed by this section shall not exceed five hundred thousand dollars ($500,000) in any one (1) taxable year.

(3) No credit is allowable under this section for a qualified investment in regard to which a credit under section 63-2903, Idaho Code, is available.

(4) The credit allowed by this section is limited to buildings and structural components of buildings related to headquarters or administrative facilities.

63-2905. ADDITIONAL INCOME TAX CREDIT FOR NEW JOBS. (1) Subject to the limitations of this chapter, for taxable years beginning on or after January 1, 2005, and before December 31, 2009, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, for the number of new employees earning more than a rate of twenty-four dollars and four cents ($24.04) per hour worked, in lieu of the credit amount in subsection (2)(a) of section 63-3029F, Idaho Code, be allowed the credit provided by this section. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:

(a) The number of employees for the prior taxable year; or

(b) The average of the number of employees for the three (3) prior taxable years.

(2) The credit provided by this section shall be:

(a) One thousand five hundred dollars ($1,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than twenty-four dollars and four cents ($24.04) per hour worked but equal to or less than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked;

(b) Two thousand dollars ($2,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but equal to or less than an average rate of thirty-six dollars and six cents ($36.06) per hour worked;

(c) Two thousand five hundred dollars ($2,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but equal to or less than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked;

(d) Three thousand dollars ($3,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked.

(3) The credit allowed by subsection (1) of this section shall apply only to employment primarily within the project site. No credit shall be earned unless such employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(4) The credit allowed by this section shall not be subject to the fifty percent (50%) limitation provided in section 63-3029F, Idaho Code.

(5) Employees transferred from a related taxpayer or acquired from another taxpayer within the prior twelve (12) months shall not be included in the computation of the credit unless the transfer creates a net new job in Idaho.

63-2906. LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of

the income from the S corporation, partnership, trust or estate; and

(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.

(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-2903, 63-2904 and 63-2905, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by sections 63-2903, 63-2904 and 63-2905, Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:

(a) The next fourteen (14) taxable years in the case of credits allowed by sections 63-2903 and 63-2904, Idaho Code; or

(b) The next ten (10) taxable years in the case of credits allowed by section 63-2905, Idaho Code.

63-2907. RECAPTURE. (1) In the event that any person to whom a tax credit allowed by section 63-2903, 63-2904 or 63-2905, Idaho Code, fails to meet the tax incentive criteria, the full amount of the credit shall be subject to recapture by the commission.

(2) If, during any taxable year, an investment in new plant is disposed of, or otherwise ceases to qualify with respect to the taxpayer, prior to the close of the recapture period, recapture of the credit allowed by sections 63-2903 and 63-2904, Idaho Code, shall be determined for such taxable year in the same proportion and subject to the same provisions as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(3) In the event that the employment required in section 63-2902(2)(j), Idaho Code, is not maintained for the entire recapture period, recapture of the credit allowed in section 63-2905, Idaho Code, shall be determined for such taxable year in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code. This subsection shall not be construed to require that the required level of employment must be met by the same individual employees.

(4) Any amount subject to recapture is a deficiency in tax for the amount of the credit in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year in which the project period ends

or three (3) years after the end of the taxable year in which any amounts carried forward under section 63-2906, Idaho Code, expire.

63-2908. SALES AND USE TAX INCENTIVES -- REBATES -- RECAPTURE. (1) For calendar years beginning on January 1, 2005, and ending on December 31, 2009, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within the project site shall be entitled to receive a rebate of all sales and use taxes imposed by chapter 36, title 63, Idaho Code, and that the taxpayer or its contractors actually paid in regard to any property constructed, located or installed within the project site during the project period for that site.

(2) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as a refund allowable under section 63-3626, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(3) Any rebate paid shall be subject to recapture by the commission:

(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or

(b) In the event that the property is not used, stored or otherwise consumed within the project site for a period of sixty (60) consecutive full months after the property was placed in service, or

(c) In the event that the employment required in section 63-2902(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.

(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(4) Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section 63-3633, Idaho Code, the period of time within which the commission may issue a notice under section 63-3629, Idaho Code, in regard to an amount subject to recapture, shall be the later of five (5) years after the end of the taxable year, for income tax purposes, in which the project period ends.

(5) The rebate allowed by this section is limited to sales and use taxes actually paid by the taxpayer or its contractors for taxable property related to headquarters or administrative facilities.

63-2909. PROPERTY TAX INCENTIVES. (1) Subject to the limitations of this chapter, both improvements to real property and personal property which are newly constructed, including construction in progress during the year, or acquired during a project period and located in the project site and owned by a taxpayer who has certified that the tax incentive criteria will be met in regard to that site, shall be entitled to receive a rebate of the lesser of:

(a) All property taxes the taxpayer actually paid for any of the

years 2005 through 2012 that are properly levied upon any property constructed or installed within the project site during the project period for that site; or

(b) All property tax the taxpayer actually paid for any of the years 2005 through 2012 that are properly levied upon any property constructed or installed within the area described in subsection (2)(g)(ii) of section 63-2902, Idaho Code, within which eighty percent (80%) or more of the investment required in subsection (2)(j)(i) of section 63-2902, Idaho Code, is made during the project period for that site; or

(c) Two million dollars ($2,000,000) of property tax paid in any one (1) calendar year.

Property upon which tax is rebated by this section, which is included on the new construction roll provided in section 63-301A, Idaho Code, shall be separately identified on that roll.

(2) Upon filing of a written claim by the taxpayer entitled to the rebate, which shall include a description of the property upon which the tax sought to be rebated was levied, the property's assessed value for property tax purposes, and its location and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as provided in section 63-3067, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year of the property taxes sought to be rebated or the right to the rebate is lost.

(3) The taxpayer shall be subject to recapture of any rebate paid under this section:

(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or

(b) In the event that the property is disposed of, or otherwise ceases to qualify with respect to the taxpayer before five (5) full years from the date the project period ends, or

(c) In the event that the employment required in section 63-2902(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.

(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion of the credit required to be recaptured under section 63-3029B, Idaho Code.

(e) Any amount subject to recapture is a deficiency in tax for the amount of the rebate in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be five (5) years after the end of the taxable year in which the project period ends.

(4) The rebate allowed by this section is limited to improvements to real property and personal property which are newly constructed, including construction in progress during the year, or acquired related to headquarters or administrative facilities.

63-2910. ADMINISTRATION. The commission shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable

rules relating to the administration and enforcement of those provisions, including the promulgation of rules relating to information necessary to certify that the incentive criteria have been or will be met. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068, 63-3071, 63-3074 through 63-3078 and 63-217, Idaho Code.

SECTION 2. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(2) All moneys except as provided in subsection (1) of this section, and except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however,

(a) that an amount equal to twenty percent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments, for the purpose of remitting to counties and taxing districts for personal property exempt from taxation pursuant to section 63-602EE, Idaho Code, as provided in subsection (3) of this section, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment, and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho;

(b) an amount equal to any amount required to be rebated under section 63-2909, Idaho Code, is continuously appropriated for the purpose of paying any such rebate.

(3) Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of one million

five hundred thousand dollars ($1,500,000) 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.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved April 13, 2005.

CHAPTER 370
(H.B. No. 323, As Amended)

AN ACT

RELATING TO TAXATION; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 44, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE AND APPLICATION, TO DEFINE TERMS, TO PROVIDE AN ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT, TO PROVIDE AN ADDITIONAL INCOME TAX CREDIT FOR NEW JOBS, TO PROVIDE LIMITATIONS AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES, TO PROVIDE RECAPTURE, TO PROVIDE SALES AND USE TAX INCENTIVES, TO PROVIDE REBATES, TO PROVIDE FOR RECAPTURE AND TO PROVIDE FOR ADMINISTRATION; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-606A, IDAHO CODE, TO ALLOW THE COUNTY BOARD OF EQUALIZATION TO EXEMPT ALL OR A PORTION OF CERTAIN PROPERTY FROM PROPERTY TAXATION AND TO PROVIDE PROCEDURES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 44, Title 63, Idaho Code, and to read as follows:

CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4401. SHORT TITLE -- APPLICATION. This chapter shall be known and may be cited as "The Idaho Small Employer Incentive Act of 2005." No provision of this chapter applies to a person, taxpayer, or other entity entitled to, applying for, or receiving any credit, rebate or other benefit under chapter 29, 39 or 43, title 63, Idaho Code.

63-4402. DEFINITIONS. (1) The definitions contained in the Idaho income tax act, shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

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

(b) "Headquarters or administrative facilities" means facility or facilities, including related parking facilities, where corporate staff employees are physically employed, and where the majority of the company's services are handled. Company services may include: accounts receivable and payable, accounting, data processing, distribution management, employee benefit plan, financial and securities accounting, information technology, insurance, legal, merchandising, payroll, personnel, purchasing/procurement, planning, reporting and compliance, tax, treasury, or other headquarters-related services.

(c) "Idaho income tax act" means chapter 30, title 63, Idaho Code.

(d) "Investment in new plant" means investment in headquarters or administrative facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the taxpayer, subject to Idaho income tax withholding whether or not any amounts are required to be withheld, covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, and who was eligible to receive employer provided coverage under a health benefit plan as described in section 41-4703, Idaho Code, during the taxable year. A person shall be deemed to be so employed if such person performs duties on a regular full-time basis.

(ii) The number of employees employed primarily within the project site by the taxpayer, during any taxable year for a taxpayer shall be the mathematical average of the number of such employees reported to the Idaho department of commerce and labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (e)(i) of this subsection (2). In the event the business is in operation for less than the entire taxable year, the number of employees of the taxpayer for the year shall be the average number actually employed during the months of operation, provided that the qualifications of paragraph (e)(i) of this subsection (2) are met.

(iii) Existing employees of the taxpayer who obtain new qualifying positions within the project site and employees transferred from a related taxpayer or acquired as part of the acquisition of a trade or business from another taxpayer within the prior twelve (12) months are not included in this definition unless the new position or transfer creates a net new job in Idaho.

(f) "Project period" means the period of time beginning at the earlier of a physical change to the project site or the first employment of new employees located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2005, and ending when the facilities constituting the project are placed in

service, but no later than December 31, 2009.

(g) "Project site" means an area or areas at which headquarters and headquarters facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the headquarters or administrative facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required by subsection (2)(j)(i) of this section is made at one (1) of the areas.

(iii) The project site must be identified and described to the commission by a taxpayer subject to tax under the Idaho income tax act, in the form and manner prescribed by the commission.

(h) "Qualified investment" shall be defined as in section 63-3029B, Idaho Code.

(i) "Recapture period" means:

(i) In the case of credits described in sections 63-4403 and 63-4404, Idaho Code, the same period for which a recapture of investment tax credit under section 63-3029B, Idaho Code, is required; or

(ii) In the case of credits described in section 63-4405, Idaho Code, five (5) years from the date the project period ends.

(j) "Tax incentive criteria" means a taxpayer meeting at a project site the requirements of subparagraphs (i), (ii) and (iii) of this paragraph (j).

(i) During the project period, making capital investments in new plant of at least five hundred thousand dollars ($500,000) at the project site.

(ii) During a period of time beginning on January 1, 2005, and ending at the conclusion of the project period:

1. Increasing employment at the project site by at least ten (10) new employees each of whom must earn at least nineteen dollars and twenty-three cents ($19.23) per hour worked during the taxpayer's taxable year.

(A) Earnings calculated pursuant to subparagraph (ii) of this paragraph (j) shall include income upon which Idaho income tax withholding is required under section 63-3035, Idaho Code, but shall not include income such as stock options or restricted stock grants.

(B) For purposes of determining whether the increased employment threshold has been met, employment at the project site shall be determined by calculating the increase of such new employees reported to the Idaho department of commerce and labor for employment security purposes over the employees so reported as of the beginning of the project period or no earlier than January 1, 2005, whichever is larger; and

2. Maintaining net increased employment in Idaho required by subparagraph (ii)1. of this paragraph (j) during the remainder of the project period.

(iii) No person meets the tax incentive criteria unless the ratio of new employees qualified under subparagraph (ii) of this section to investment in new plant under subparagraph (i) of this section exceeds one (1) employee for each fifty thousand dollars ($50,000) of investment in new plant.

(k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsection (2), means either:

(i) A single taxpayer; or

(ii) In the context of a unitary group filing a combined report under section 63-3027(t), Idaho Code, all members of a unitary group includable in a combined report for the tax years in which the credit provided for by this chapter may be claimed. For all other purposes, the terms of section 63-3009, Idaho Code, and section 63-3027(t)(1), Idaho Code, apply to the meaning of "taxpayer."

63-4403. ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For taxable years beginning on or after January 1, 2005, and before December 31, 2009, and subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, in regard to qualified investments made after the beginning of the project period and before December 31, 2009, in lieu of the investment tax credit provided in section 63-3029B, Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of three and seventy-five one hundredths percent (3.75%) of the amount of qualified investment made during a taxable year, wherever located within this state.

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

(3) The credit allowed by this section shall not exceed one million two hundred fifty thousand dollars ($1,250,000) in any one (1) taxable year.

63-4404. REAL PROPERTY IMPROVEMENT TAX CREDIT. (1) For taxable years beginning on or after January 1, 2005, and before December 31, 2009, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of two and five-tenths percent (2.5%) of the investment in new plant which is incurred during the project period applicable to the project site in which the investment is made.

(2) The credit allowed by this section shall not exceed one hundred and twenty-five thousand dollars ($125,000) in any one (1) taxable year.

(3) No credit is allowable under this section for a qualified investment in regard to which a credit under section 63-4403, Idaho Code, is available.

(4) The credit allowed by this section is limited to buildings and structural components of buildings related to headquarters or administrative facilities.

63-4405. ADDITIONAL INCOME TAX CREDIT FOR NEW JOBS. (1) Subject to the limitations of this chapter, for taxable years beginning on or after January 1, 2005, and before December 31, 2009, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, for the number of new employees earning more than a rate of twenty-four dollars and four cents ($24.04) per hour worked, in lieu of the credit amount in subsection (2)(a) of section 63-3029F, Idaho Code, be allowed the credit provided by this section. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:

(a) The number of employees for the prior taxable year; or

(b) The average of the number of employees for the three (3) prior taxable years.

(2) The credit provided by this section shall be:

(a) One thousand five hundred dollars ($1,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than twenty-four dollars and four cents ($24.04) per hour worked but equal to or less than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked;

(b) Two thousand dollars ($2,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but equal to or less than an average rate of thirty-six dollars and six cents ($36.06) per hour worked;

(c) Two thousand five hundred dollars ($2,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but equal to or less than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked;

(d) Three thousand dollars ($3,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked.

(3) The credit allowed by subsection (1) of this section shall apply only to employment primarily within the project site. No credit shall be earned unless such employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

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

(5) Employees transferred from a related taxpayer or acquired from another taxpayer within the prior twelve (12) months shall not be included in the computation of the credit unless the transfer creates a net new job in Idaho.

63-4406. LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of

the income from the S corporation, partnership, trust or estate; and

(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.

(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-4403, 63-4404 and 63-4405, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by sections 63-4403, 63-4404 and 63-4405, Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:

(a) The next fourteen (14) taxable years in the case of credits allowed by sections 63-4403 and 63-4404, Idaho Code; or

(b) The next ten (10) taxable years in the case of credits allowed by section 63-4405, Idaho Code.

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

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

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

(4) Any amount subject to recapture is a deficiency in tax for the amount of the credit in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year in which the project period ends

or three (3) years after the end of the taxable year in which any amounts carried forward under section 63-4406, Idaho Code, expire.

63-4408. SALES AND USE TAX INCENTIVES -- REBATES -- RECAPTURE. (1) For calendar years beginning on January 1, 2005, and ending on December 31, 2009, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within the project site shall be entitled to receive a rebate of twenty-five percent (25%) of all sales and use taxes imposed by chapter 36, title 63, Idaho Code, and that the taxpayer or its contractors actually paid in regard to any property constructed, located or installed within the project site during the project period for that site.

(2) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as a refund allowable under section 63-3626, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(3) Any rebate paid shall be subject to recapture by the commission:

(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or

(b) In the event that the property is not used, stored or otherwise consumed within the project site for a period of sixty (60) consecutive full months after the property was placed in service, or

(c) In the event that the employment required in section 63-4402(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.

(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(4) Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section 63-3633, Idaho Code, the period of time within which the commission may issue a notice under section 63-3629, Idaho Code, in regard to an amount subject to recapture, shall be the later of five (5) years after the end of the taxable year, for income tax purposes, in which the project period ends.

(5) The rebate allowed by this section is limited to sales and use taxes actually paid by the taxpayer or its contractors for taxable property related to headquarters or administrative facilities.

63-4409. ADMINISTRATION. The commission shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of those provisions, including the promulgation of rules relating to information necessary to certify that the incentive criteria have been or will be met. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and

duties provided by sections 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068, 63-3071, 63-3074 through 63-3078 and 63-217, Idaho Code.

SECTION 2. 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 63-606A, Idaho Code, and to read as follows:

63-606A. SMALL EMPLOYER GROWTH INCENTIVE EXEMPTION. (1) The county board of equalization of any county in which any property, the investment in which qualifies for the income tax credits described in sections 63-4403 and 63-4404, Idaho Code, is located may exempt all or a portion of the value of such property from property taxation. The board may grant the exemption when it finds that the investments in such property benefit the citizens within the county and taxing districts within the county in a manner and to such a degree that to grant the exemption is necessary and just.

(2) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code.

(3) Applications for the exemption under this section shall be considered by the board as other applications for exemption under section 63-501, Idaho Code. Upon request of the board, the state tax commission may disclose to the board or county official designated by the board information necessary to identify and determine the property upon which the exemption may be granted.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved April 13, 2005.

CHAPTER 371
(H.B. No. 331)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-803, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO SETTING FEES FOR PHYSICIAN SERVICES.

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

SECTION 1. That Section 72-803, Idaho Code, be, and the same is hereby amended to read as follows:

72-803. CLAIMS OF ATTORNEYS AND PHYSICIANS AND FOR MEDICAL AND RELATED SERVICES -- APPROVAL. Claims of attorneys and claims for medical services and for medicine and related benefits shall be subject to approval by the commission; provided however, that fees for physician services shall be set using relative value units from the current year resource based relative value system (RBRVS) as it is modified from time to time, multiplied by conversion factors to be determined by the commission in rule. Factors will be set for, at least, the following CPT code areas: medicine, surgery, physical medicine, radiology, anesthesia and pathology. The fees shall be adjusted each year using the same methodology as set forth in section 56-136, Idaho Code. In cases where RBRVS units are not available or have no relation to industrial claims, relative value units for fees for physician services shall be determined by the commission. Initial conversion factors shall be determined by the commission no later than January 1, 2006, to be effective April 1, 2006.

Approved April 13, 2005.

CHAPTER 372
(H.B. No. 333)

AN ACT

RELATING TO PUBLIC UTILITY COST REDUCTION BONDS; AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 61, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR COST REDUCTION ORDERS OF THE PUBLIC UTILITIES COMMISSION, TO LIMIT THE AGGREGATE AMOUNT OF COST REDUCTION FINANCING, TO PROVIDE COST REDUCTION RATES, TO PROVIDE PROCEDURES FOR ISSUANCE OF COST REDUCTION BONDS, TO PROVIDE FOR SECURITY INTERESTS, TO PROVIDE FOR TRANSFERS IN INTEREST, TO PROVIDE FOR SUCCESSORS, TO PROVIDE DISCLAIMER OF STATE FULL FAITH AND CREDIT AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 16, Title 61, Idaho Code, and to read as follows:

CHAPTER 16
UTILITY COST REDUCTION BONDS

61-1601. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter to authorize the public utilities commission to approve certain cost reduction charges or rates as a method of financing or refinancing costs incurred or to be incurred by electric and gas utilities that will accrue benefits to Idaho consumers through reduced utility rates. The legislature believes that this type of securities legislation is in the public interest but should not be considered as endorsement of, or intended to provide, a mechanism for restructuring of the utility industry in the state of Idaho.

61-1602. DEFINITIONS. For purposes of this chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

(1) "Approved costs" means the amounts that a public utility or assignee has been authorized to recover by the commission pursuant to a cost reduction order including, without limitation:

(a) Amounts incurred or to be incurred for purposes for which a public utility may issue stock and stock certificates or other evidences of interest or ownership, or bonds, notes or other evidences of indebtedness under chapter 9, title 61, Idaho Code;

(b) Amounts necessary to recover federal or state taxes actually paid by a public utility, which tax liability is modified by the transactions approved in a cost reduction order issued by the commission pursuant to this chapter; and

(c) Reasonable costs, as approved by the commission, relating to the issuance, servicing or refinancing of cost reduction instruments under the provisions of this chapter including, without limitation, principal, interest or other payments and accruals, sinking fund payments, debt service and other reserves, costs of credit enhancement, indemnities, if any, owed to an assignee or the trustee for the cost reduction instrument, issuance costs and redemption premiums, if any, and all other reasonable fees, costs and charges with respect to the cost reduction instrument.

(2) "Assignee" means any corporation, limited liability company, trust, partnership or other entity to which a public utility assigns, sells or transfers, other than as security, all or a portion of the public utility's interest in or right to cost reduction property. The term also includes any such entity to which an assignee assigns, sells or transfers, other than as security, the assignee's interest in or right to cost reduction property.

(3) "Chapter 9" means chapter 9, title 28, Idaho Code, as from time to time amended, including any successor provisions.

(4) "Cost reduction instrument" means any instrument, pass-through certificate, note, bond, debenture, certificate of participation, collateral trust certificate, beneficial interest or other evidence of indebtedness or ownership issued by a public utility or an assignee pursuant to a cost reduction order and an executed indenture, security agreement or other similar instrument that is secured by or payable from cost reduction rates or cost reduction property.

(5) "Cost reduction instrument holder" means any holder of a cost reduction instrument or any trustee, collateral agent or other entity acting for the benefit of or on behalf of any such holder.

(6) "Cost reduction order" means an order of the commission issued in accordance with this chapter that authorizes the imposition and collection of approved costs.

(7) "Cost reduction property" means the irrevocable, vested property right created pursuant to this chapter and one (1) or more cost reduction orders including, without limitation, the right, title and interest of a public service company or assignee to all revenues, collections, claims, payments, money or proceeds of or arising from a cost reduction rate, and all rights to obtain adjustments to such cost reduction rate pursuant to the terms of this chapter and any cost reduction order.

(8) "Cost reduction rate" means a charge or rate that the commis-

sion authorizes in a cost reduction order, whether such amounts are billed and/or collected by the public utility, an assignee, any subsidiary or affiliate thereof, or any third party that may assume the responsibility for billing or collecting such cost reduction charges.

(9) "Public utility" means any electric or gas corporation subject to the jurisdiction, regulation and control of the public utilities commission as contained in chapter 1, title 61, Idaho Code.

61-1603. COST REDUCTION ORDER. (1) A public utility may apply to the commission for a cost reduction order authorizing the recovery of approved costs through the imposition and collection of a cost reduction rate.

(2) A public utility may apply to the commission from time to time for a cost reduction order in a manner prescribed by the commission, in separate proceedings for this purpose or in connection with a general rate case. Such application may also include a request for authority to issue and sell cost reduction instruments to be secured by or payable from the cost reduction rate that results from such cost reduction order or the cost reduction property created by this chapter and the cost reduction order related to such cost reduction rate. Upon such an application, if the commission finds that the public interest would be served if the approved costs were recovered through a cost reduction rate, the commission shall issue a cost reduction order to allow the public utility to recover the approved costs through a cost reduction rate and may also provide authority to issue and sell cost reduction instruments.

(3) A cost reduction order shall detail the approved costs to be recovered and the period of time in which recovery of the approved costs is to occur. A cost reduction order shall specify the amount of the cost reduction rate and the method for determining the amount of the cost reduction rate that from time to time will be sufficient to recover all approved costs. Cost reduction rates shall remain in effect until all approved costs have been paid in full.

(4) A cost reduction order may be issued only upon the application of a public utility and shall become effective only in accordance with its terms and conditions. A public utility may withdraw its application for a cost reduction order if it disagrees with any of the terms and conditions of the order within fourteen (14) days of service of a final order on the public utility. A public utility shall effect the withdrawal of its application by filing a written notice of withdrawal with the commission within such time period. Nothing in this section shall be construed to limit or preclude other remedies that may be available to the public utility under applicable law.

(5) No public utility shall be treated as having acted unreasonably or imprudently by reason of its failure to apply for a cost reduction order, by reason of its withdrawal of an application for a cost reduction order, or by reason of its failure to arrange for the issuance of cost reduction instruments pursuant to a cost reduction order.

(6) Upon issuance of a cost reduction order, a public utility may sell, assign or otherwise transfer or pledge cost reduction property created by this chapter and the applicable cost reduction order, and if authorized by the particular cost reduction order, a public utility or an assignee may issue or cause to be issued cost reduction instruments.

(7) Any cost reduction order, and the approved costs and the cost

reduction rates that have been authorized by the commission in such cost reduction order, shall be irrevocable and binding upon the commission. The commission shall not have authority either by rescinding, altering or amending a cost reduction order or otherwise to, either directly or indirectly, revalue or revise for ratemaking purposes the approved costs or the cost reduction rates. Once the commission authorizes a cost reduction rate, it cannot determine in a later proceeding that the cost reduction rate is unjust or unreasonable, or in any way reduce or impair the value of related cost reduction property, either directly or indirectly, by taking the cost reduction rate into account when setting other rates for the public utility; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement or termination. The state of Idaho does hereby pledge to and agree with the owners of cost reduction property and with any cost reduction instrument holders that neither the state nor any of its agencies, including the commission, shall (by administrative or legislative action, ballot initiative or other similar process) limit, alter, restrict or impair the approved costs, the cost reduction rate, the cost reduction property, the cost reduction orders or any rights thereunder or ownership thereof or security interest therein or in any way impair the rights or remedies of any cost reduction instrument holders. The state does hereby acknowledge that any cost reduction instrument holders may and will rely on this pledge and agreement and that they would be irreparably harmed by any such limitation, alteration, restriction or impairment without such adequate provision.

(8) Notwithstanding any other provision of this chapter, the commission will from time to time, and no less frequently than annually, approve adjustments to the cost reduction rates as may be necessary to ensure timely and complete recovery of all approved costs that are the subject of the pertinent cost reduction order.

(9) Subject to the foregoing limitations, the commission has the same authority with respect to a proposed cost reduction rate as it has with regard to any other tariff, schedule or classification the effect of which is to change any rate or charge, including, without limitation, the power granted by chapter 6, title 61, Idaho Code, to conduct a hearing concerning a proposed cost reduction rate and the reasonableness and justness thereof.

(10) The commission shall establish procedures for the expeditious processing of any application for cost reduction orders and adjustments thereto, including the approval or disapproval of any such orders within forty-five (45) days of the application therefor.

61-1604. LIMITATION ON AGGREGATE AMOUNT OF COST REDUCTION FINANCING. The amount of approved costs in a cost reduction order, either individually or in the aggregate with previously approved costs included in cost reduction orders that remain outstanding, may not exceed an amount equal to forty percent (40%) of the public utility's total capitalization, including both debt and equity, as of the end of the fiscal year of such public utility preceding the application for such cost reduction order.

61-1605. COST REDUCTION RATE. (1) Each cost reduction order shall specify a procedure for making adjustments to the cost reduction rate that is the subject of the order.

(2) Upon application by a public utility the commission may:

(a) Authorize the making of adjustments to the cost reduction rate at more frequent intervals than those specified in such order; and/or

(b) Authorize a change in the method for calculating the cost reduction rate from that specified in such order so as to better ensure the timely and complete recovery of all approved costs.

(3) The cost reduction rate shall be treated as a charge for utility services for purposes of determining both the credit and collection standards and the remedies for nonpayment that are available to a public utility.

(4) A cost reduction rate shall constitute cost reduction property when, and to the extent that, a cost reduction order authorizing such cost reduction rate has become effective in accordance with this chapter, and the cost reduction property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this chapter for the period and to the extent provided in the cost reduction order, but in any event until the approved costs are paid in full.

(5) Any surplus cost reduction rate collections in excess of the amounts necessary to pay approved costs shall be used in such manner as the commission may reasonably determine.

(6) The obligation to pay amounts in respect of a cost reduction rate cannot be avoided by the formation of a local publicly owned utility or other entity, or by annexation of any portion of the service territory of the public utility by a local publicly owned electric utility or other entity.

61-1606. COST REDUCTION INSTRUMENTS. (1) Public utilities and assignees may issue and sell cost reduction instruments upon approval by the commission of such action in a cost reduction order.

(2) Public utilities and assignees may sell and assign all or portions of their interest in cost reduction property that is the basis for the issuance of cost reduction instruments to the extent approved in the pertinent cost reduction order. To the extent approved in the pertinent cost reduction orders, public utilities and assignees may also pledge cost reduction property as collateral, directly or indirectly, for cost reduction instruments providing for a security interest in the cost reduction property, in the manner as set forth in this chapter. Cost reduction property may also be sold or assigned by:

(a) A public utility, an assignee or a trustee for the holders of cost reduction instruments in connection with the exercise of remedies upon a default; or

(b) Any person acquiring the cost reduction property after a sale or assignment pursuant to this subsection.

(3) To the extent that any interest in cost reduction property is so sold or assigned, or is so pledged as collateral, the commission may authorize the public utility to contract with an assignee that it will continue to operate its system to provide service to its customers, will collect amounts with respect to the cost reduction rates for the benefit and account of the assignee, and will account for and remit these amounts to or for the account of the assignee. Contracting with the assignee in accordance with that authorization shall not impair or negate the characterization of the sale, assignment or pledge as an

absolute transfer, a true sale or security interest, as applicable.

(4) Upon approval by the commission of a cost reduction order, any issuance of cost reduction instruments approved therein, any related transfer or pledge of cost reduction property and any other transactions incidental to such issuance shall be exempt from the requirements of 61-901 through 61-908, Idaho Code. The commission may include in any cost reduction order any additional approvals that may be required in connection with such issuance under applicable law.

(5) An assignee shall not be considered to be an electric or gas corporation solely by virtue of the transactions described in this chapter.

61-1607. SECURITY INTEREST. (1) To the extent the provisions of this section conflict with chapter 9 as from time to time in effect, including any successor provisions, this section shall apply.

(2) A security interest in cost reduction property is valid, is enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the cost reduction property perfected in the manner described in this section, and attaches when all of the following have occurred:

(a) The commission has issued a cost reduction order authorizing a cost reduction rate, the right to the imposition and collection of which is included in the cost reduction;

(b) Value has been given by the pledgees of the cost reduction property; and

(c) The pledgor has signed a security agreement covering the cost reduction property.

(3) A valid and enforceable security interest in cost reduction property is perfected when it has attached and when a financing statement has been filed in accordance with chapter 9, naming the pledgor of the cost reduction property as "debtor" and identifying the cost reduction property. Any description of the cost reduction property shall be sufficient if it refers to the cost reduction order creating the cost reduction property. A copy of the financing statement shall be filed with the commission by the pledgor or transferor of the cost reduction property, and the commission may require the pledgor or transferor to make other filings with respect to the security interest in accordance with procedures it may establish, provided that the filings shall not affect the perfection of the security interest. A financing statement filed pursuant to this section shall remain effective until a termination statement is filed.

(4) A perfected security interest in cost reduction property is a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Cost reduction property shall constitute property for all purposes, including for contracts securing cost reduction instruments, whether or not the revenues and proceeds arising with respect thereto have accrued.

(5) Subject to the terms of the security agreement covering the cost reduction property and the rights of any third parties holding security interests in the cost reduction property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or

adversely affected by the commingling of revenues arising with respect to the cost reduction property with other funds of the public utility that is the pledgor or transferor of the cost reduction property, or by any security interest in a deposit account of that public utility perfected under chapter 9, into which the revenues are deposited. Subject to the terms of the security agreement, the pledgees of the cost reduction property shall have a perfected security interest in all cash and deposit accounts of the public utility in which revenues arising with respect to the cost reduction property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the cost reduction property received by the public utility within twelve (12) months before: (a) any default under the security agreement, or (b) the institution of insolvency proceedings by or against the public utility, less payments from the revenues to the pledgees during that twelve (12) month period.

(6) If an event of default occurs under the security agreement covering the cost reduction property, the pledgees of the cost reduction property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under chapter 9, and shall be entitled to foreclose or otherwise enforce their security interest in the cost reduction property, subject to the rights of any third parties holding prior security interests in the cost reduction property perfected in the manner provided in this section. In addition, the commission may require, in the cost reduction order creating the cost reduction property, that, in the event of default by the public utility in payment of revenues arising with respect to the cost reduction property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under section 61-1608, Idaho Code, of the cost reduction property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the cost reduction property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor or transferor of the cost reduction property.

(7) Cost reduction property shall constitute a payment intangible as that term is defined under chapter 9.

(8) Sections 28-9-204 and 28-9-205, Idaho Code, as from time to time amended, including any successor provisions, shall apply to a pledge of cost reduction property by a public utility, assignee or other issuer.

(9) This section sets forth the terms by which a consensual security interest can be created and perfected in cost reduction property. Unless otherwise ordered by the commission with respect to any series of cost reduction instruments on or prior to the issuance of the series, there shall exist a statutory lien as provided in this section. Upon the effective date of the cost reduction order, there shall exist a first priority lien on all cost reduction property then existing or thereafter arising pursuant to the terms of the cost reduction order. This lien shall arise by operation of this section automatically without any action on the part of the public utility, any assignee or other issuer, or any other person. This lien shall secure all obligations, then exist-

ing or subsequently arising, to the holders of the cost reduction instruments issued pursuant to the cost reduction order, the trustee or representative for the holders, and any other entity specified in the cost reduction order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the pertinent cost reduction order, have all rights and remedies of a secured party upon default under chapter 9, and shall be entitled to foreclose or otherwise enforce this statutory lien in the cost reduction property. This lien shall attach to the cost reduction property regardless of who shall own, or shall subsequently be determined to own, the cost reduction property including any public utility, any assignee or other issuer, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the cost reduction property and all third parties upon the effectiveness of the cost reduction order without any further public notice; provided however, that any person may, but shall not be required to, file a financing statement in accordance with subsection (3) of this section. Financing statements so filed may be "protective filings" and shall not be evidence of the ownership of the cost reduction property. A perfected statutory lien in cost reduction property is a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. In addition, the commission may require, in the cost reduction order creating the cost reduction property, that, in the event of default by the public utility in payment of revenues arising with respect to cost reduction property, the commission and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the cost reduction property.

61-1608. TRANSFERS IN INTEREST. (1) A transfer of cost reduction property by a public utility to an assignee, or by an assignee to another assignee, that the parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in a cost reduction order, shall be treated as an absolute transfer of all of the transferor's right, title and interest, as in a true sale, and not as a pledge or other financing, of the cost reduction property, in each case notwithstanding any contrary treatment for federal or state income and franchise taxes, accounting or other purposes.

(2) A transfer of cost reduction property shall be deemed perfected as against third persons and shall vest title in the transferee when both of the following have taken place:

(a) The commission has issued the cost reduction order authorizing the cost reduction rate included in the cost reduction property; and

(b) A written assignment of the cost reduction property has been executed and delivered to the transferee.

(3) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with chapter 9, naming the assignor of the cost reduction property as debtor and identifying the cost reduction property has priority. Any description of cost reduction property shall be sufficient if it refers to the cost reduction order creating the cost reduction prop-

erty. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

(4) The interest of an assignee or pledgee in cost reduction property and in the revenues and collections arising from such property are not subject to set-off, counterclaim, surcharge or defense by the public utility or any other person or in connection with the bankruptcy of the public utility or any other person.

61-1609. SUCCESSORS. Any successor to the public utility, whether pursuant to any bankruptcy, reorganization or other insolvency proceeding, or pursuant to any merger, sale or transfer, by operation of law or otherwise, shall perform and satisfy all obligations of the public utility pursuant to this chapter in the same manner and to the same extent as was required of the public utility before such proceeding or merger, sale or transfer including, but not limited to, billing, collecting and paying to the cost reduction instrument holders, or their representatives or the applicable financing entity, cost reduction rates and any other revenues arising with respect to the cost reduction property sold to the applicable financing entity or pledged to secure cost reduction instruments and seeking cost reduction rate adjustments, as necessary and permitted by the pertinent cost reduction order, to recover all approved costs designated in such cost reduction order.

61-1610. DISCLAIMER OF STATE FULL FAITH AND CREDIT. Cost reduction rates, cost reduction property, and any related cost reduction instruments issued under this chapter and any applicable cost reduction orders do not constitute a debt or liability of this state or of any political subdivision thereof and do not constitute a pledge of the full faith and credit of this state or any of its political subdivisions, but are payable solely from the funds provided therefor. Any cost reduction instruments shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of Idaho is pledged to the payment of the principal of, or interest on, this instrument."

61-1611. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Approved April 13, 2005.

CHAPTER 373
(H.B. No. 364)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDI-

TIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2005; DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

FROM:	
General Fund	$ 2,456,200
Miscellaneous Revenue Fund	10,658,900
Veterans Services Endowment Income Fund	35,000
Federal Grant Fund	5,044,800
TOTAL	$18,194,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred six and thirty-two hundredths (306.32) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 77, Laws of 2004, there is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2004, through June 30, 2005.

FOR:	
Operating Expenditures	$250,000
Capital Outlay	50,000
TOTAL	$300,000
FROM:	
Miscellaneous Revenue Fund	$300,000

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval; and the remaining sections of this act shall be in full force and effect on and after July 1, 2005.

Approved April 13, 2005.

CHAPTER 374
(H.B. No. 378)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES IN THE CHILDREN'S MENTAL HEALTH PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR

THE CHILDREN'S MENTAL HEALTH PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES IN THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEY; ALLOWING TRANSFERS IN EXCESS OF TEN PERCENT BETWEEN CERTAIN PROGRAMS; AND PROVIDING LEGISLATIVE INTENT FOR OVERSIGHT BY THE IDAHO COUNCIL FOR CHILDREN'S MENTAL HEALTH.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for mental health services in the Children's Mental Health Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$2,147,700	$ 690,400	$26,800	$ 9,848,700	$12,713,600
Cooperative Welfare Fund (Federal)	3,105,400	2,677,800	4,700	1,458,900	7,246,800
Cooperative Welfare Fund (Dedicated)				114,500	114,500
TOTAL	$5,253,100	$3,368,200	$31,500	$11,422,100	$20,074,900

SECTION 2. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than ninety-two and two-tenths (92.2) full-time equivalent positions for the Children's Mental Health Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for mental health services in the Community Mental Health Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 7,601,900	$1,912,300	$1,724,800	$11,239,000
Cooperative Welfare Fund (Federal)	2,095,100	1,023,600	396,900	3,515,600
Cooperative Welfare Fund (Dedicated)	2,659,000			2,659,000
TOTAL	$12,356,000	$2,935,900	$2,121,700	$17,413,600

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred twenty-nine and two-tenths (229.2) full-time equivalent positions for the Community Mental Health Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. 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 6. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for fiscal year 2005, to be used for nonrecurring expenditures for the Children's Mental Health Program and the Community Mental Health Services Program for the period July 1, 2005, through June 30, 2006. Of that amount, any unexpended and unencumbered balances originally appropriated for trustee and benefit payments shall be used for residential foster care and treatment services. The reappropriation shall be computed by the Department of Health and Welfare.

SECTION 7. LIMITATION ON PROGRAM TRANSFERS. Notwithstanding the provisions of Section 67-3511(2), Idaho Code, the Department of Health and Welfare may transfer in excess of ten percent (10%) of program totals between the Child Welfare Program and the Children's Mental Health Program to properly account for their respective activities.

SECTION 8. OVERSIGHT BY THE IDAHO COUNCIL ON CHILDREN'S MENTAL HEALTH. The Idaho Council on Children's Mental Health shall have the authority to oversee the "Building on Each Other's Strengths Initiative," a grant from the federal government through the Department of Health and Human Services. The Idaho Council on Children's Mental Health was established through Executive Order to oversee the implementation of the plan and the legislative policy for the provision of access to treatment, prevention, and rehabilitation services for children with serious emotional disturbances. The plan was formulated from the recom-

mendations of "The Needs Assessment of Idaho's Children with Serious Emotional Disturbances and Their Families." The Idaho Council on Children's Mental Health is requested to report back to the Joint Finance-Appropriations Committee during the 2006 legislative session on the progress of the plan implementation.

Approved April 13, 2005.

CHAPTER 375
(H.B. No. 385)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR ADMINISTRATION AND MANAGEMENT FOR FISCAL YEAR 2006; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR PROVIDER PAYMENTS FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2005; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2005; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEY; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO DISCONTINUE PAYING FOR NONMEDICALLY NECESSARY CIRCUMCISION OF MALE INFANTS; DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE TO DEVELOP APPROPRIATE AND EFFECTIVE MENTAL HEALTH TREATMENT; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY FOR SECTIONS 3 AND 4 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts for administration and medical management to be expended according to the designated expense classes from the various funds listed for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 5,745,300	$ 6,277,900	$12,023,200
Idaho Health Insurance Access Card Fund	136,200	11,200	147,400
Cooperative Welfare Fund (Federal)	10,526,700	12,197,500	22,724,200
TOTAL	$16,408,200	$18,486,600	$34,894,800

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts for provider payments to be expended according to the designated expense

class from the various funds listed for the period July 1, 2005, through June 30, 2006:

FOR:	
Trustee and Benefit Payments	$1,153,269,600
FROM:	
General Fund	$ 319,251,000
Medical Assistance Fund	2,500
Liquor Control Fund	650,000
Idaho Health Insurance Access Card Fund	1,727,900
Cooperative Welfare Fund (Federal)	756,378,300
Cooperative Welfare Fund (Dedicated)	75,259,900
TOTAL	$1,153,269,600

SECTION 3. In addition to the appropriation made in Section 1, Chapter 379, Laws of 2004, there is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts according to the designated expense class from the listed funds for the period July 1, 2004, through June 30, 2005:

FOR:	
Trustee and Benefit Payments	$65,719,900
FROM:	
General Fund	$15,457,900
Cooperative Welfare Fund (Dedicated)	13,148,500
Cooperative Welfare Fund (Federal)	37,113,500
TOTAL	$65,719,900

SECTION 4. In addition to the authorization granted in Section 5, Chapter 229, Laws of 2004, as amended by Section 2, House Bill 348, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, the Department of Health and Welfare is authorized three (3) full-time equivalent positions for the period July 1, 2004, through June 30, 2005.

SECTION 5. 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 6. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated to the Medical Assistance Services Program for fiscal year 2005, to be used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 7. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds for the period July 1, 2005, through June 30, 2006.

SECTION 8. NONMEDICALLY NECESSARY PROCEDURE. The Department of Health and Welfare shall discontinue paying for nonmedically necessary circumcision for male infants as recommended to the Joint Finance-

Appropriations Committee by the House of Representatives Health and Welfare Committee. The estimated savings from discontinuing this procedure are $172,800 from the General Fund. Major private insurers in Idaho have discontinued this procedure based upon the newest evidence that it is medically unnecessary.

SECTION 9. MENTAL HEALTH TREATMENT. The Department of Health and Welfare shall develop appropriate and effective treatments for children with serious emotional disturbances and adults with severe and persistent mental illness based on available best practices. The department may limit partial care clinic and psychosocial rehabilitation services to these clients. Effective strategies such as single assessment process, prior authorization of services, and limitations on hours of service may be utilized by the department to ensure that the appropriate level of service is available to meet client needs.

SECTION 10. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred seventy-one (271) full-time equivalent positions for the Medical Assistance Services Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the Department of Health and Welfare's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, Sections 3 and 4 of this act shall be in full force and effect on and after passage and approval.

Approved April 13, 2005.

CHAPTER 376
(S.B. No. 1170, As Amended)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REVISE THE DEFINITION FOR "PUBLIC VIRTUAL SCHOOL"; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE LIMITATIONS APPLICABLE TO THE CREATION OF PUBLIC CHARTER SCHOOLS AND TO REVISE TERMINOLOGY; AMENDING SECTION 33-5204, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL SHALL BE DEEMED PUBLIC AGENTS AUTHORIZED BY THE PUBLIC CHARTER SCHOOL COMMISSION, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL SHALL FUNCTION INDEPENDENTLY OF THE PUBLIC CHARTER SCHOOL COMMISSION EXCEPT AS PROVIDED IN THE CHARTER, TO PROVIDE AN EXCEPTION TO THE APPLICATION OF REFERENCED CODE SECTIONS AND TO REVISE TERMINOLOGY; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PETITIONS TO ESTABLISH PUBLIC CHARTER SCHOOLS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5205A, IDAHO CODE, TO PROVIDE FOR TRANSFERS OF CHARTERS; AMENDING SECTION 33-5206,

IDAHO CODE, TO PROVIDE THAT EDUCATIONAL EXPERIENCE SHALL BE COUNTED BY A SCHOOL DISTRICT FOR ANY TEACHER WHO HAS BEEN EMPLOYED IN A PUBLIC CHARTER SCHOOL, TO PROVIDE THAT A COPY OF THE APPROVED PETITION SHALL BE PROVIDED TO THE STATE BOARD OF EDUCATION UPON APPROVAL OF THE PETITION BY THE AUTHORIZED CHARTERING ENTITY AND TO PROVIDE FOR THE DISTRIBUTION OF ASSETS WHEN A CHARTER IS REVOKED OR THE BOARD OF DIRECTORS OF THE PUBLIC CHARTER SCHOOL TERMINATES THE CHARTER; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE CHARTER APPEAL PROCEDURE; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE THAT ALL FEDERAL EDUCATIONAL FUNDS SHALL BE ADMINISTERED AND DISTRIBUTED TO PUBLIC CHARTER SCHOOLS THAT HAVE BEEN DESIGNATED AS REQUIRED BY THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-5209, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE THAT A DECISION TO REVOKE A CHARTER OR TO DENY A REVISION OF A CHARTER MAY BE APPEALED DIRECTLY TO THE STATE BOARD OF EDUCATION AND TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL SUBSTANTIALLY FOLLOW CERTAIN PROCEDURES WITH RESPECT TO SUCH APPEAL; AND AMENDING SECTION 33-5210, IDAHO CODE, TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 33-5202A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means either the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(6) "Public virtual school" means a public charter school that may serve students in more than one (1) school district and ~~that provides~~ through which the primary method for the delivery of instruction to all of its pupils ~~primarily~~ is through virtual distance learning or online technologies. ~~A building-based public virtual school primarily provides such instruction at one (1) or more central building locations. A home-~~

~~based public virtual school primarily provides such instruction directly to the pupil at home.~~

(7) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

SECTION 2. That Section 33-5203, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(b) Not more than one (1) ~~newly chartered~~ new public charter school may ~~be granted for~~ begin educational instruction that is physically located within any one (1) school district ~~for a~~ in any one (1) school year, and

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

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

(e) The transfer of a charter for a school already authorized pursuant to section 33-5205A, Idaho Code, is not included in the limit on the annual number of public charter schools approved to begin educational instruction in any given school year as set forth in paragraph (a) of this subsection, and

(f) A petition must be received by the initial authorized chartering entity no later than September 1 to be eligible to begin instruction the first complete school year following receipt of the petition.

(3) A public charter school may be formed either by creating a new public charter school, which charter may be ~~granted~~ approved by any authorized chartering entity, or by converting an existing traditional public school to a public charter school, which charter may only be ~~granted~~ approved by the board of trustees of the school district in which the existing public school is located.

(4) No charter shall be ~~granted~~ approved under this chapter:

(a) Which provides for the conversion of any existing private or parochial school to a public charter school.

(b) To a for-profit entity or any school which is operated by a for-profit entity, provided however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.

(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district. The limitation provided in this subsec-

tion (4)(c) does not apply to a home-based public virtual school.

(5) A public virtual school charter may be ~~granted~~ approved by the public charter school commission. In addition, a charter may also be approved ~~and granted~~ by the state board of education pursuant to section 33-5207(5)(b), Idaho Code.

(6) The state board of education shall adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.

(7) The state board of education shall be responsible to designate those public charter schools that will be identified as a local education agency (LEA) as such term is defined in 34 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA.

SECTION 3. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located, or independently of the public charter school commission except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

(a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;

(b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts with officers;

(c) Chapter 7, title 59, Idaho Code, on ethics in government;

(d) Chapter 23, title 67, Idaho Code, on open public meetings; and

(e) Chapter 3, title 9, Idaho Code, on disclosure of public records in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

(2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that ~~grants~~ approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school

located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.

(3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings, as collateral for the loan.

(4) Public charter schools shall secure insurance for liability and property loss.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (5). The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

SECTION 4. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to

convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the ~~service~~ attendance area designated in the petition.~~, and~~ Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and ~~reject~~ deny the charter; or (iii) refer the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within ~~thirty~~ sixty (~~3~~60) days from the date ~~of~~ the ~~submission of the~~ charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission, provided it is signed by thirty (30) qualified electors as required by subsection (1)(a) of this section. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(~~b~~e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than ~~thirty~~ sixty (~~3~~60) days after receiving a petition signed ~~in accordance with the specifications in~~ by thirty (30) qualified electors as required by subsection (1)(a) of this section, the authorized chartering entity shall hold a ~~meeting open to the~~ public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than sixty (60) days after receipt of the petition, which may be extended to ninety (90)

days if both parties agree to an extension, and the public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. Following review of the petition and the public hearing, the authorized chartering entity shall either ~~grant~~ approve or deny the charter within sixty (60) days after the date of ~~receipt of the petition~~ the public hearing, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to contain ~~the requisite signatures or fails to contain~~ all of the information required in this section, or if both parties agree to the extension. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may ~~grant~~ approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsection (4) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers~~, or may apply for a waiver or any of the limited certification options~~ as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorri-

gible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and fourth, an equitable selection process such as by lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.

(~~j~~k) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.

(~~k~~l) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(~~l~~m) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, ~~and~~ worker's compensation insurance, and health insurance.

(~~m~~n) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(~~n~~o) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at ~~a public~~ such charter school.

(~~o~~p) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

~~(p) The procedures to be followed by the public charter school and the authorized chartering entity to resolve disputes relating to provisions of the charter.~~

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

~~(r) The manner by which eligible~~ A plan for working with parents who have students ~~from the public charter school shall be allowed to participate in dual enrollment in noncharter schools within the same district as the public charter school, as provided for in~~ who are dually enrolled pursuant to section 33-203~~(7)~~, Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(t) A proposal for transportation services as required by section 33-5208(4), Idaho Code.

(u) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

SECTION 5. That Chapter 52, 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 33-5205A, Idaho Code, and to read as follows:

33-5205A. TRANSFER OF CHARTER. A charter for a public charter school approved by the board of trustees of a local school district may be transferred to, and placed under the chartering authority of, the public charter school commission if the board of trustees of such local school district, the public charter school commission, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter that may be required in connection with such transfer. A charter for a public charter school approved by the public charter school commission may be transferred to, and placed under the chartering authority of, the board of trustees of the local school district in which the public charter school is located if the public charter school commission, the board of trustees of such local school district, and the board of directors of the public charter school all agree to such transfer, including any revisions to the charter that

may be required in connection with such transfer. A request to transfer a charter may be initiated by the board of directors of a public charter school or by the authorized chartering entity with chartering authority over the charter of such public charter school. If all parties fail to reach agreement in regard to the request to transfer a charter, as required herein, then the matter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. A transferred charter school shall not be considered a new public charter school, and shall not be subject to the limitations of section 33-5203(2), Idaho Code.

SECTION 6. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC CHARTER SCHOOL. (1) In addition to any other requirements imposed in this chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a public charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion public charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the attendance area of that public charter school. The attendance area of a charter school, as described in the petition, shall be composed of compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a public charter school.

(3) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for service in a public charter school and such experience shall be counted by any school district ~~to--which--the~~ for any teacher ~~returns--after employment~~ who has been employed in a public charter school.

(4) Employment of charter school teachers and administrators shall be on written contract in form as 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.

(5) No board of trustees shall require any student enrolled in the school district to attend a public charter school.

(6) Upon approval of the petition by the authorized chartering entity, the petitioner shall provide written notice of that approval, including a copy of the approved petition, to the state board of education. For the purpose of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on

the chronological order in which notice of the approved petition is received by the state board of education.

(7) Each public charter school shall annually submit a report to the authorized chartering entity which approved its charter. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(~~j~~k), Idaho Code, a report on student progress based on the public charter school's student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report.

(8) When a charter is revoked pursuant to section 33-5209, Idaho Code, or the board of directors of the public charter school terminates the charter, the assets of the public charter school remaining after all debts of the public charter school have been satisfied must be returned to the authorized chartering entity for distribution in accordance with applicable law.

SECTION 7. That Section 33-5207, Idaho Code, be, and the same is hereby amended to read as follows:

33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, ~~grants~~ approves a ~~charter~~ petition for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction within thirty (30) days of the date of the written decision, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the authorized chartering entity, pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of receipt of the request, review the charter petition and convene a public hearing regarding the charter petition. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation 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 recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the authorized chartering entity shall hold a meeting open to the public for the purpose of reviewing the hearing officer's written recommendation. Within ten (10) days of ~~this hearing~~ such meeting, the authorized chartering entity shall either affirm

or reverse its initial decision. The authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of a traditional public school to a public charter school, the local school board:

(a) Affirms its initial decision to authorize such conversion, the charter shall be granted approved and there shall be no further appeal.

(b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny establishment of a new petition for a public charter school, the authorized chartering entity:

(a) Reverses its initial decision and approves the new public charter school petition, the charter shall be granted and there shall be no further appeal.

(b) Affirms its initial decision denying the new public charter school petition, the petitioners for the establishment of the new public charter school board of directors of the nonprofit corporation identified in the petition may appeal to the state board of education. The state board of education shall hold a public hearing within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve or deny the charter petition for the establishment of a new public charter school, provided that the state board of education shall only approve the petition if it determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request petition; (ii) remand the matter back to the authorized chartering entity, for which shall have authority to further review and act on such matter as directed by the state board of education; or (iii) redirect the matter to another authorized chartering entity for further review as directed by the state board of education. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

(6) A public charter school for which a charter is granted approved by the state board of education shall qualify fully as a public charter school for all funding and other purposes of this chapter. The public charter school commission shall assume the role of the authorized chartering entity for any charter authorized approved by the state board of education as provided in subsection (5)(b) of this section. Employees of a public charter school authorized approved by the state board of education shall not be considered employees of the local school district in which the public charter school is located, nor of the state board of education, nor of the commission.

(7) The decision of the state board of education shall be subject to review pursuant to chapter 52, title 67, Idaho Code. Nothing in this section shall prevent a petitioner from bringing a new petition for a public charter school at a later time.

(8) There shall be no appeal of a decision by a local school board of trustees which denies the conversion of an existing traditional public school within that district to a public charter school, or by an

authorized chartering entity which ~~grants~~ approves a petition for ~~the establishment of~~ a new public charter school.

SECTION 8. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) ~~At the discretion of the board of directors, and subject to any specific limitations in its charter, a~~All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that ~~enroll students from multiple school districts in the same manner~~ have been designated by the state board of education as ~~an independent~~ a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

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

SECTION 9. That Section 33-5209, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized chartering entity shall ensure that all public charter schools for which it ~~authorized charters~~ approved petitions, or for which it has responsibility, operate in accordance with the approved charter. ~~granted.~~ A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions.

(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;

(b) Failed to substantially meet any of the student educational standards identified in the approved charter;

(c) Failed to meet generally accepted accounting standards of fiscal management;

(d) Failed to submit required reports to the authorized chartering entity governing the charter; or

(e) Violated any provision of law.

(3) A charter may be revoked by the authorized chartering entity if the public charter school has failed to cure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect. Revocation may not occur until the public charter school has been afforded a public hearing and a reasonable opportunity to cure the defect, unless the authorized chartering entity reasonably determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with section 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(4) A decision to revoke a charter or ~~not~~ to ~~approve~~ deny a revision of a charter may be appealed directly to the state board of educa-

tion. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation, the public charter school subject to such action shall then be placed under the chartering authority of the commission.

SECTION 10. That Section 33-5210, Idaho Code, be, and the same is hereby amended to read as follows:

33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION FROM STATE RULES. (1) All public charter schools are under the general supervision of the state board of education.

(2) Every authorized chartering entity that ~~grants~~ approves a charter shall be responsible for ensuring that each public charter school program approved by that authorized chartering entity meets the terms of the charter, complies with the general education laws of the state unless specifically directed otherwise in this chapter 52, title 33, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in section 33-1612, Idaho Code.

(3) Each charter school shall comply with the financial reporting requirements of section 33-701, subsections 5. through 10., Idaho Code, in the same manner as those requirements are imposed upon school districts.

(4) Each public charter school is otherwise exempt from rules governing school districts which have been promulgated by the state board of education, with the exception of state rules relating to:

(a) Waiver of teacher certification as necessitated by the provisions of section 33-5205(3)(g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code;

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code;

(d) The requirement that all employees of the school undergo a criminal history check as required by section 33-130, Idaho Code; and

(e) All rules which specifically pertain to public charter schools promulgated by the state board of education.

Approved April 14, 2005.

CHAPTER 377
(S.B. No. 1173, As Amended)

AN ACT

RELATING TO SICK AND OTHER LEAVE; AMENDING SECTION 33-1216, IDAHO CODE, TO REQUIRE THAT THE ENTITLEMENT TO ONE FULL DAY OF SICK LEAVE FOR EACH MONTH OF SERVICE IN WHICH A CERTIFICATED OR NONCERTIFICATED EMPLOYEE OF A SCHOOL DISTRICT OR CHARTER SCHOOL WORKS A MAJORITY OF THAT MONTH BE LIMITED TO NONCERTIFICATED EMPLOYEES OF A SCHOOL DISTRICT OR CHARTER SCHOOL WHO REGULARLY WORK TWENTY HOURS OR MORE PER WEEK AND CERTIFICATED EMPLOYEES OF A SCHOOL DISTRICT OR CHARTER SCHOOL WHO REGULARLY WORK HALF TIME OR MORE.

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

SECTION 1. That Section 33-1216, Idaho Code, be, and the same is hereby amended to read as follows:

33-1216. SICK AND OTHER LEAVE. (a) At the beginning of each new employment year and thereafter as necessary during the employment year, each ~~certificated--and~~ noncertificated employee of any school district, including charter districts, who regularly works twenty (20) hours or more per week or certificated employee who works half time or more per week for a school district, including charter districts, shall be entitled to sick leave with full pay of one (1) day, ~~for each month of service, or major portion thereof as projected for the employment year~~ as projected for the employment year for each month of service in which they work a majority portion of that month, subject to the limitations provided by this chapter. Sick leave for noncertificated employees shall be calculated proportionate to the average hours worked per day. Sick leave for certificated employees shall be calculated by the day, or percentage thereof, as defined in their individual employment contracts. The local board of trustees shall not provide compensation for unused sick leave. This shall not prohibit the local board of trustees from establishing a policy providing retirement severance pay.

(b) The board of trustees may require proof of illness adequate to protect the district against malingering and false claims of illness. Any accumulated sick leave earned prior to July 1, 1976, shall be used before the use of any accumulated sick leave earned subsequent to July 1, 1976.

Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of illness or death of members of the families of such employees, for professional conferences and workshops, and for such other purposes as the board may determine.

(c) Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of absence during a period for which the employee is paid by worker's compensation. In addition the board may supplement the worker's compensation payment by an amount not to exceed an amount which when combined with the worker's compensation payment would be equal to the amount the employee would have been paid if he had not been injured. Supplementation may come from accrued vacation leave, compensatory time or sick leave time as may be provided in the policy of the district. Time for which a person is paid worker's compensation shall not be allowed as straight sick leave which would result in duplicate compensation.

(d) The board of trustees of any school district, including any specially chartered district, may also grant a leave of absence to any certificated employee of such district for service to a professional educational organization of which such certificated employee is a member and has been elected to hold the office of president therein, such leave to be for a period not exceeding one (1) year. During the period of any such leave of absence the said certificated employee shall receive the same compensation and receive or accrue such other rights and benefits that he would have been entitled to or have received or accrued had he been present and working for the school district, and he shall remain an active member of the public employee retirement system of Idaho; pro-

vided that such professional educational organization shall first pay to the said school district an amount equal to any and all compensation, contributions to the public employee retirement system of Idaho and any other amounts paid to or accrued in the name of said employee during such period.

Approved April 14, 2005.

CHAPTER 378
(S.B. No. 1183, As Amended in the House)

AN ACT

RELATING TO TRANSPORTATION PROJECT FINANCING; AMENDING SECTION 40-105, IDAHO CODE, TO DEFINE "DRAW"; AMENDING CHAPTER 1, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-108, IDAHO CODE, TO DEFINE "GARVEE"; AMENDING CHAPTER 3, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-315, IDAHO CODE, TO SET FORTH POWERS AND DUTIES OF THE IDAHO TRANSPORTATION BOARD RELATING TO FEDERALLY-FUNDED HIGHWAY PROJECT FINANCING AND TO PROVIDE SPECIFIED ROUTES AND PROJECTS FOR SELECTION BY THE BOARD; AMENDING SECTION 40-702, IDAHO CODE, TO PROVIDE THAT THE STATE HIGHWAY ACCOUNT SHALL INCLUDE CERTAIN FEDERAL SURFACE TRANSPORTATION FUNDS; AMENDING SECTION 40-707, IDAHO CODE, TO PROVIDE FOR APPROPRIATION OF FEDERAL MONEYS IN THE STATE HIGHWAY ACCOUNT FOR PAYMENT OF PRINCIPAL, INTEREST AND OTHER AMOUNTS REQUIRED FOR TRANSPORTATION BONDS OR NOTES, TO AUTHORIZE THE BOARD TO USE NONFEDERAL FUNDS TO PAY THE MATCH FOR FEDERAL FUNDS USED TO PAY BONDS OR NOTES AND TO AUTHORIZE TRANSFER OF SUCH MATCH TO THE GARVEE DEBT SERVICE FUND; AMENDING CHAPTER 7, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-718, IDAHO CODE, TO ESTABLISH THE GARVEE CAPITAL PROJECT FUND AND THE GARVEE DEBT SERVICE FUND; AMENDING SECTION 67-6201, IDAHO CODE, TO EXPAND THE PURPOSE OF THE IDAHO HOUSING AND FINANCE ASSOCIATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6205, IDAHO CODE, TO DEFINE THE TERMS "MUNICIPALITY," "STATE," "STATE BODY," "TRANSPORTATION BOARD," "TRANSPORTATION DEPARTMENT" AND "TRANSPORTATION PROJECT"; AMENDING SECTION 67-6206, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS OF THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6210, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS FOR RESOLUTIONS AUTHORIZING NOTES OR BONDS OR ANY ISSUE THEREOF AND TO PROVIDE THAT THE ASSOCIATION SHALL NOT ISSUE BONDS OR NOTES TO FINANCE TRANSPORTATION PROJECTS UNLESS CERTAIN CONDITIONS ARE MET; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 40-105, Idaho Code, be, and the same is hereby amended to read as follows:

40-105. DEFINITIONS -- D.

(1) "Department" means the Idaho transportation department.

(2) "Director" means the director of the Idaho transportation department.

(3) "Displaced person" means any individual, family, business or farm operation which moves from real property or moves personal property from real property acquired for a program or project of a state or local agency, in whole or in part, or as the result of a written order of an acquiring agency to vacate real property for a program or project of a state or local agency, and, solely for the purposes of section 40-2004, Idaho Code, as a result of a written order of an acquiring agency to vacate other real property, on which a person conducts a business or farm operation, for a program or project of any state or local agency.

(4) "Draw" means making a cash demand on the proceeds of transportation bonds or notes issued by the Idaho housing and finance association as it pertains to section 40-718, Idaho Code.

(45) "Dump" means any place or area, not operated as a business, where junk is deposited, stored or kept.

SECTION 2. That Chapter 1, 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 40-108, Idaho Code, and to read as follows:

40-108. DEFINITIONS -- G.

(1) "GARVEE" means grant anticipation revenue vehicle, a debt financing instrument which enables states to finance state transportation infrastructure projects and to pay debt service and other bond-related expenses with future federal-aid highway apportionments.

SECTION 3. That Chapter 3, 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 40-315, Idaho Code, and to read as follows:

40-315. POWERS AND DUTIES -- FEDERALLY-FUNDED HIGHWAY PROJECT FINANCING. (1) In order to address the increasing need for timely improvements to Idaho's highway transportation infrastructure, the board may:

(a) Enter into agreements with the Idaho housing and finance association in connection with the funding of highway transportation projects qualifying for reimbursement from federal funds.

(b) Approve and recommend federal highway transportation projects to the Idaho housing and finance association for financing by the association. Such federal highway transportation projects shall be eligible for federal-aid debt financing under chapter 1, title 23, United States Code, and approval by the federal highway administration as an advanced construction (AC) project thereunder. The board shall select and designate such transportation projects to be funded with bond proceeds from the following list of eligible projects:

ROUTE	PROJECT DESCRIPTION
US-95	SH-1 to Canadian border
US-95	Garwood to Sagle
US-95	Worley to Setters
US-95	Thorn Creek to Moscow
US-95	Smokey Boulder to Hazard Creek
SH-16 Ext	South Emmett to Mesa with connection to SH-55
SH-16 Ext	I-84 to South Emmett
I-84	Caldwell to Meridian
I-84	Orchard to Isaacs Canyon

US-93	Twin Falls alternate route and new Snake River crossing
SH-75	Timmerman to Ketchum
US-20	St. Anthony to Ashton
US-30	McCammon to Soda Springs

Notwithstanding the provisions of subsection (1)(b) wherein eligible projects are listed for selection and designation by the board, if any of the designated projects are deemed to be ineligible by the board, the board shall have the authority to replace those projects with other projects deemed eligible by the board.

(2) Prior to issuance by the Idaho housing and finance association of any bonds or notes to finance highway transportation projects, the board shall certify to the association that sufficient federal transportation funds are available to make any payments required for such bonds or notes.

(3) The board shall limit annual, total cumulative debt service and other bond-related expenses as follows:

(a) In the 2006 legislative session for the fiscal year 2007 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(b) In the 2007 legislative session for the fiscal year 2008 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(c) In the 2008 legislative session for the fiscal year 2009 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(d) In the 2009 legislative session for the fiscal year 2010 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(e) In the 2010 legislative session for the fiscal year 2011 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than thirty percent (30%) of annual federal-aid highway apportionments.

(f) Beginning with the 2011 legislative session for the fiscal year 2012 budget, or for any year thereafter, the thirty percent (30%) limit may be exceeded, but only by affirmative action of both the house of representatives and the senate, and with the approval of the governor.

(4) In the event the board selects and designates to be funded with bond proceeds any of the transportation projects listed in subsection (1) of this section, and prior to entering into agreements with the Idaho housing and finance association as provided herein, the Idaho transportation department, as part of its annual budget request prepared pursuant to section 67-3502, Idaho Code, shall include a request for bonding authority as a separate item of its budget request. This request for bonding authority shall include a list of planned highway transportation projects to be financed with such bond financing during the next succeeding fiscal year.

(5) By June 30 of each year, the board shall submit a report to the legislature concerning projects currently under construction using the bond financing as authorized by the provisions of this section, and

shall include a list of planned highway transportation projects to be financed with such bond financing during the next succeeding fiscal year.

SECTION 4. That Section 40-702, Idaho Code, be, and the same is hereby amended to read as follows:

40-702. STATE HIGHWAY ACCOUNT -- ESTABLISHMENT. For the purpose of carrying out the provisions of this title, there is established in the dedicated fund of the state treasury an account to be known as the state highway account, which account shall include:

(1) All moneys received by the state treasurer for deposit to the state highway account.

(2) All fines, penalties and forfeitures incurred and collected for violations of the provisions of this title, except as otherwise provided.

(3) All donations to the state from any source for the construction and improvement of highways.

(4) All moneys received from local boards under joint contracts for the construction of state highways.

(5) All federal surface transportation funds received from the United States government, including, but not limited to, funds received pursuant to chapter 1 of title 23, United States Code, for the national highway systems program, the surface transportation program, the highway bridge program, the minimum guarantee program, the federal lands highways program and other similar programs under successor laws.

(6) Other moneys which may be provided by law for the construction and improvement of state highways.

(67) Interest earned on the investment of idle moneys in the state highway account shall be paid to the state highway account.

SECTION 5. That Section 40-707, Idaho Code, be, and the same is hereby amended to read as follows:

40-707. APPROPRIATION OF MONEYS IN STATE HIGHWAY ACCOUNT. (1) From federal funds within the state highway account, there are hereby continuously appropriated first such amounts as, from time to time, shall be certified by the Idaho housing and finance association to the state controller, state treasurer and the board as necessary for payment of principal, interest and other amounts required for transportation bonds or notes of the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code, which amounts shall be transferred to the GARVEE debt service fund established in section 40-718, Idaho Code.

(2) The board may, but is not obligated to, use any nonfederal funds in the state highway account to pay match as required for receipt of federal funds used to pay the bonds or notes as described in subsection (1) of this section. Such match may be transferred to the GARVEE debt service fund established in section 40-718, Idaho Code.

(3) One-half of one percent (.5%) of the moneys in the state highway account may be utilized to encourage the use of recycled materials including, but not limited to, recycled glass, reclaimed asphalt, asphalt containing recycled plastic, recycled rubber tires and paper in highway construction and maintenance projects. All other moneys at any time in the state highway account, except those as are otherwise

required by law to be placed in the state highway redemption account, are hereby appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the highway board as provided by law, and for defraying administrative expenses of the department, including salaries of the board, the salary of the director, and salaries and wages of employees of the department and board and expenses for traveling. Communication supplies, equipment, fixed charges and all other necessary expenses of the department and board, not otherwise provided for and all claims against the state highway account shall be examined by the department and certified to the state controller, who shall, upon approval of the board of examiners, draw his warrant against the state highway account for all bills and claims allowed by the board.

SECTION 6. That Chapter 7, 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 40-718, Idaho Code, and to read as follows:

40-718. GARVEE FUNDS ESTABLISHED -- CAPITAL PROJECT FUND -- DEBT SERVICE FUND. (1) There is established in the state treasury a fund known as the "GARVEE Capital Project Fund" which shall include:

(a) Any draw by the board of proceeds from the transportation bonds or notes issued by the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code.

(b) Interest earned on the investment of idle moneys in the GARVEE capital project fund shall be paid to the GARVEE capital project fund.

Disbursements from this fund shall be made for projects in accordance with chapter 3, title 40, Idaho Code. All moneys in the fund are hereby continuously appropriated to the department.

(2) There is established in the state treasury a fund known as the "GARVEE Debt Service Fund" for the purpose of paying the principal, interest and other amounts required for transportation bonds or notes of the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code. The fund shall include:

(a) Amounts transferred from the state highway account upon certification by the Idaho housing and finance association to the state controller, state treasurer and the board as necessary for payment of principal, interest and other amounts required for transportation bonds or notes.

(b) Interest earned on the investment of idle moneys in the GARVEE debt service fund shall be paid to the GARVEE debt service fund.

From moneys within this fund, there are hereby continuously appropriated such amounts as, from time to time, shall be certified by the Idaho housing and finance association to the state controller, state treasurer and the board as necessary for payment of principal, interest and other amounts required for transportation bonds or notes of the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code, which amounts shall be paid over as directed by the association.

SECTION 7. That Section 67-6201, Idaho Code, be, and the same is hereby amended to read as follows:

67-6201. PURPOSE. It is hereby declared:

(a) That within the state there is a shortage of safe or sanitary dwelling accommodations available which persons of low incomes can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime, and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities.

(b) That private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary dwellings at prices or rents which persons and families of low income can afford, or to achieve rehabilitation of much of the present low-income housing. It is imperative that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

(c) That the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist, and the providing of safe and sanitary dwelling accommodations for persons of low incomes (which dwelling-accommodations need not be solely for persons of low incomes in order to avoid concentrations of such persons in specific localities), are public uses, and uses and purposes for which public money may be spent and private property acquired, and are governmental functions.

(d) It is also declared and the legislature hereby finds that charitable, educational, human service, cultural and other purposes pursued by nonprofit corporations are important public functions and public purposes that should be encouraged and that financing of nonprofit facilities for these purposes should be encouraged, without using state funds or lending the credit of the state, through the issuance of nonrecourse revenue bonds and the lending of the proceeds thereof to nonprofit corporations to promote their purposes.

(e) It is further declared that in this state:

(1) There exists an inadequate supply of funds at interest rates sufficiently low to enable persons engaged in agriculture in this state, particularly beginning farmers and ranchers, to pursue agricultural operations at present levels;

(2) That such inability to pursue agricultural operations ~~lessens~~ reduces the supply of agricultural commodities available to fulfill the needs of the citizens of this state;

(3) That such inability to continue operations decreases available employment in the agricultural sector of the state and results in unemployment and its attendant problems;

(4) That such conditions prevent the acquisition of an adequate capital stock of farm and ranch equipment and machinery, therefore impairing the productivity of agricultural land;

(5) That such conditions are conducive to consolidation of acreage of agricultural land with fewer individuals living and farming and ranching on the traditional family farm and ranch;

(6) That these conditions result in a loss in population, unemployment and movement of persons from rural to urban areas accompanied

by added costs to communities for creation of new public facilities and services;

(7) That there have been recurrent shortages of funds from private market sources at reasonable rates of interest;

(8) That these shortages have made the sale and purchase of agricultural land to beginning farmers and ranchers a virtual impossibility in many parts of the state;

(9) That the ordinary operations of private enterprise have not in the past corrected these conditions; and

(10) That a stable supply of adequate funds for agricultural financing is required to encourage beginning farmers and ranchers in an orderly and sustained manner and to reduce the problems described herein.

(f) It is hereby further declared that:

(1) The growth of the economy of this state has prompted new and ever-increasing uses of public highways, roads, and other transportation infrastructure, and the existing transportation infrastructure of this state cannot adequately accommodate such greatly increased uses;

(2) One of the major concerns of the citizens of this state is the ability of the state to address the long-term transportation infrastructure needs of this state that are critical to the continued growth of the state's economy and the maintenance of citizens' quality of life;

(3) Utilizing bonds or notes to finance projects for transportation infrastructure results in significant cost savings to the state, since such transportation projects can be completed at present day costs and at an accelerated pace, but such bonds and notes need to be issued promptly in order to realize these cost savings; and

(4) It is reasonable and necessary to utilize such bonds or notes for the financing of transportation projects.

(g) It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended or granted and that such activities are governmental functions and serve a public purpose in improving or otherwise benefiting the people of this state; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 8. That Section 67-6205, Idaho Code, be, and the same is hereby amended to read as follows:

67-6205. DEFINITIONS. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Association" or "housing association" shall mean the Idaho housing and finance association created by section 67-6202, Idaho Code.

(b) "Housing project" shall mean any work or undertaking:

(1) To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or

(2) To construct, sell, lease, finance, improve, operate or otherwise provide decent, safe and sanitary urban or rural dwellings,

apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property which are necessary, convenient or desirable appurtenances, such as, but not limited to, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, and welfare or other purposes; or

(3) To accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, for either single or multi-family housing, the acquisition of property, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration and repair of the buildings and improvements and all other work in connection therewith.

(c) "Governing body" shall mean the city council, board of commissioners, board of trustees or other body having charge of the locality in which the association desires to undertake a housing project.

(d) "Federal government" shall include the United States of America, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(e) "City" shall mean any city in the state of Idaho, including each city having a special charter.

(f) "County" or "counties" shall include all counties in the state of Idaho as designated in chapter 1, title 31, Idaho Code.

(g) "Clerk" shall mean the clerk of the city or county as the case may be or the officer charged with the duties customarily imposed on such clerk.

(h) "Area of operation" shall mean the state of Idaho.

(i) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety, health or morals.

(j) "Person of low-income" means persons deemed by the association, including those defined as "elderly" in the United States Housing Act of 1937 [42 U.S.C., sec. 1437--1437dd], as amended, to require assistance available under this act on account of insufficient personal or family income, to pay the rents or carrying charges required by the unaided operation of private enterprise in providing an adequate supply of decent, safe and sanitary housing and in making such determination the association shall take into consideration, without limitation, such factors as:

(1) The amount of the total income of such persons available for housing needs;

(2) The size of the family;

(3) The cost and condition of housing facilities available;

(4) Standards established for various federal programs determining eligibility based on income of such persons; and

(5) The ability of such persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing.

(k) "Bonds," "notes" or "bond anticipation notes," and "obligations" shall mean any bonds, notes, interim certificates, debentures or other evidences of financial indebtedness issued by the association pursuant to this chapter.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature, appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(m) "Housing authority" or "authority" means a housing authority established pursuant to the "housing authorities and cooperation law" constituting chapter 19, title 50, Idaho Code.

(n) "Rent" shall mean the periodic payment made by a person of low-income in a housing project whether such money is being used as rent, or for the development of equity by such person.

(o) "Interim financing" means a short-term construction loan for planning and/or development of residential housing for persons of low-income and other persons which loan shall run until financing can be assumed through other federal, state or private financing.

(p) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, and corporations, cooperatives, and condominiums, approved by the association as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing project, subject to the regulatory powers of the association and other terms and conditions set forth in this chapter. A "housing sponsor" shall be either a "limited profit" sponsor or a "nonprofit" sponsor.

(q) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, and any other financial institution authorized to transact business in the state.

(r) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a lien on property in the state except in the case of loans insured by the federal housing administration or the association and which are made for the rehabilitation or improvement of existing dwellings; in such case the loans need not be secured by an instrument constituting a lien on property in the state.

(s) "Mixed income housing project" means a housing project which contains dwellings occupied or to be occupied by persons of low-income constituting at least twenty percent (20%) of such occupancy.

(t) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and portions of any of the foregoing and similar ancillary facilities.

(u) "Nonprofit corporation" means a nonprofit corporation organized and operating in accordance with Idaho law or a nonprofit corporation organized and operating in accordance with comparable laws within another state or territory of the United States.

(v) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for a nonprofit purpose of the corporation; provided that facilities for health facilities which may be funded pursuant to chapter 14, title 39, Idaho Code, shall not be included in this definition, except for such health facilities as may be specifically approved by the Idaho health facilities authority. Facilities owned or used, con-

sistent with its nonprofit purpose, by a nonprofit corporation recognized by a state institution of higher education as its college or university foundation shall be considered nonprofit facilities under this chapter.

(w) "Project costs of a nonprofit facility" means costs of:

(1) Acquisition, construction and improvement of any facilities included in a nonprofit facility;

(2) Architectural, engineering, consulting, accounting and legal costs related directly to the development, financing and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility;

(3) Finance costs, including discounts, if any, the costs of issuing bonds, and costs incurred in carrying out any provisions thereof;

(4) Interest during construction and during the six (6) months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(5) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(6) Other costs incidental to any of the costs listed in this section.

(x) "Agricultural facility or facilities" means land, any building or other improvement thereon or thereto, to be owned by a beginning farmer or rancher and any personal properties deemed necessary or suitable for use, whether or not now in existence in farming or ranching, the production of agricultural commodities, including, without limitation, the products of aquaculture, hydroponics and silviculture, or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by beginning farmers or ranchers as a part of farming or ranching.

(y) "Municipality" means any county, municipal corporation, highway district, taxing district or other political subdivision of this state.

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

(aa) "State body" means any department, board, commission or agency of the state of Idaho.

(bb) "Transportation board" means the Idaho transportation board and its successors.

(cc) "Transportation department" means the Idaho transportation department and its successors.

(dd) "Transportation project" means any transportation infrastructure project including, without limitation, a road, street, parkway, right-of-way, bridge, railroad crossing, drainage structure, sign, guardrail, structure, interstate, surface, resurface, shoulder, roadside, or any other work, and any planning development, management and construction related thereto, all as approved or recommended to the association by the transportation board.

SECTION 9. That Section 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. POWERS OF ASSOCIATION. The housing and finance association is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to

carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the association; and to make and from time to time amend and repeal bylaws, rules, not inconsistent with this act, to carry into effect the powers and purposes of the association.

(b) To conduct its operations within any or all of the counties of the state.

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the association under this act, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage lenders to act for and in behalf of the association, with respect to originating or servicing and processing mortgage loans of the association, and to pay the reasonable value of service rendered to the association by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects, nonprofit facilities or any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or nonprofit facilities and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the association against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government or other source for the payment or purchase of any bonds or parts thereof issued by the association, including the power to pay for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the association may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low-income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low-income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with any agencies, organizations and individuals in order to undertake the provision of housing for persons of low-income, to undertake the provision of nonprofit facilities or agricultural facilities.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low-income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low-income, and/or mixed income housing projects upon the terms and conditions set forth in this act; provided, however, that such loans shall be made only upon the determination by the association that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low-income and/or mixed income housing projects or loans which have been made to persons of low-income for residential housing, upon terms set forth in this act; provided, however, that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low-income, upon terms set forth in this act; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the association, in mortgage loans to persons of low-income or in mortgage loans for housing projects for persons of low-income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the association, provided that the association has determined that such financing is not otherwise

available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this act.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this act and in connection therewith, to waive, by resolution or other document of the association, the exemption from federal income taxation of interest on any of the association's obligations under existing or future federal law and to establish, maintain and preserve the association's general obligation rating and any rating on its bonds, notes or other obligations.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the association may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the association pursuant to this act, and to make and publish rules respecting the making and purchase of mortgage loans.

(x) To organize a nonprofit corporation to assist the association in providing for housing projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof.

(aa) To make or purchase secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project costs of any nonprofit facility or agricultural facility, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for the project costs of a nonprofit facility or agricultural facility; and to charge and collect interest on the loans for the loan payments upon such terms and conditions, including without limitation bond rating and issuance conditions, as the board of commissioners considers advisable which are not in conflict with this chapter.

(bb) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of nonprofit facilities or agricultural facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage

and repledge any security conveyed to the association, to secure any loan made by the association and to pledge the revenues and receipts therefrom.

(cc) To issue bonds for the purpose of financing all or part of the project cost on any nonprofit facility or agricultural facility and to secure the payment of the bonds as provided in this chapter.

(dd) To purchase or sell by installment contract or otherwise, and convey all or any part of any nonprofit facility or agricultural facility for such purchase price and upon such terms and conditions as this board of commissioners considers advisable which are not in conflict with this chapter.

(ee) To lease all or any part of any nonprofit facility or agricultural facility for such rentals and upon such terms and conditions, including options to purchase, as the board of commissioners considers advisable and not in conflict with this chapter.

(ff) To construct and maintain one (1) or more nonprofit facilities or agricultural facilities, provided that the association shall not operate any nonprofit facility or agricultural facility as a business other than as lessor, seller or lender. The purchase, holding and enforcing of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of a nonprofit facility or agricultural facility as a business.

(gg) To act as the designated housing resource clearinghouse in the state for matters relating to affordable housing.

(hh) To coordinate the development and maintenance of a housing policy for the state.

(ii) To enter into agreements or other transactions and accept grants, reimbursements or other payments, with the cooperation of the United States or any agency thereof or of the state of Idaho or any agency thereof or municipality of the state in furtherance of the purposes of this act, including, but not limited to, the development, maintenance, operation and financing of any transportation project and to do any and all things necessary in order to avail the association of such aid and cooperation.

(jj) To borrow money and issue bonds and notes or other evidences of indebtedness thereof as hereinafter provided to finance transportation projects approved and recommended by the transportation board.

SECTION 10. That Section 67-6210, Idaho Code, be, and the same is hereby amended to read as follows:

67-6210. POWER TO ISSUE BONDS. The association shall have power and is hereby authorized to issue, from time to time, its negotiable notes and bonds in conformity with the applicable provisions of the uniform commercial code in such principal amount as the association shall determine to be necessary for sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the association, establishment of reserves to secure such notes and bonds, and all other expenditures of the association incidental and necessary or convenient to carry out its corporate purposes and powers; provided, however, that the association shall provide in its resolution authorizing such bonds that all revenues received by the association as a result of the issuance of such bonds shall be pledged first to the payment of principal and interest on such bonds.

(a) The association shall have the power, from time to time, to issue:

(1) notes to renew notes and

(2) bonds to pay notes, including the interest thereon, and

(3) whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

The refunding bonds may be:

(1) exchanged for the bonds to be refunded or

(2) sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(b) Except as may otherwise be expressly provided by the association, every issue of its notes and bonds shall be payable exclusively from the revenues or income of the association, including grants and contributions from the United States of America, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(c) The notes and bonds shall be authorized by resolution or resolutions of the association, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the association may be sold by the association, at public or private sale, at such price or prices as the association shall determine.

(d) Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(1) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(2) pledging all or any part of the assets of the association including mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(3) the use and disposition of the gross income from mortgages owned by the association and payment of principal of mortgages owned by the association;

(4) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(5) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(6) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(7) the procedure, if any, by which the terms of any contract with

noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto; and the manner in which such consent may be given;

(8) limitations on the amount of moneys to be expended by the association for operating expenses of the association;

(9) vesting in a trustee or trustees such property, rights, powers and duties in trust as the association may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this act; and limiting or abrogating the right of the bondholders to appoint a trustee under this act, or limiting the rights, powers and duties of such trustee;

(10) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the association to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this act;

(11) pledging all or any part of funds allocated to the association under Idaho law or other revenues or the proceeds of notes or bonds to secure the payment of notes or bonds issued to finance transportation projects, subject to such agreements with noteholders or bondholders as may then exist;

(12) setting forth the provisions for any contracts relating to its bonds or notes, including, without limitation, any investment or interest rate contracts, or any contract providing for a credit enhancement, including, but not limited to, letters of credit, bond insurance and surety bonds provided by private financial institutions;

(13) setting forth the provisions for representations or certifications to be made by an officer of the association with respect to funds to be allocated to the association for transportation projects and provisions for the disbursements of the proceeds of the bonds or notes for payment of the costs of a transportation project, costs of issuance and other related costs;

(14) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(e) Any pledge made by the association shall be valid and binding from the time when the pledge is made; the revenues, moneys or property so pledged and thereafter received by the association shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the association, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(f) Neither the commissioners of the association nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

(g) The association, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the association, which shall

thereupon be canceled, at a price not exceeding:

(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or

(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(h) In the discretion of the association, the bonds may be secured by a trust indenture by and between the association and a corporate trustee, which may be any trust company or bank having the power of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the association in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The association may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the association. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

(i) Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

(j) In case any of the commissioners or officers of the association whose signatures appear on any notes or bonds or coupons shall cease to be such commissioners or officers before the delivery of such notes or bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery.

(k) The association shall not issue any bonds or notes to finance transportation projects unless:

(1) the Idaho transportation board has approved and recommended the transportation projects for financing through the association;

(2) the Idaho transportation board has certified to the association that sufficient funds are available to make the payments required for the bonds or notes to be issued to finance the transportation projects and that the annual, total cumulative debt service and bond-related expenses on federally-funded highway project financing do not exceed the limits specified in section 40-315(3), Idaho Code; and

(3) the association and the Idaho transportation board have entered into an agreement for the association to provide financing of the transportation projects.

SECTION 11. 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 14, 2005.

CHAPTER 379
(S.B. No. 1191, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-602, IDAHO CODE, TO REVISE EXPIRATION PROVISIONS FOR TAXIDERMIST AND FUR BUYER'S LICENSES; AMENDING SECTION 36-306, IDAHO CODE, TO REVISE VENDOR ISSUANCE FEE PROVISIONS; AND AMENDING SECTION 36-416, IDAHO CODE, TO REVISE THE SCHEDULE OF LICENSE FEES.

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

SECTION 1. That Section 36-602, Idaho Code, be, and the same is hereby amended to read as follows:

36-602. LICENSE FEES -- EXPIRATION. (a) Resident Taxidermist and Fur Buyer's License. A fee as specified in section 36-416, Idaho Code, shall be charged for a resident taxidermist and fur buyer's license.

(b) Nonresident Taxidermist and Fur Buyer's License. Nonresidents shall pay an amount equal to that charged Idaho residents in the state of the applicant for the license. In cases where the state of the applicant requires more than one (1) license, the cost shall be the total of all licenses required of an Idaho resident to engage in similar activities in the state of the applicant. In no case shall this amount be less than the fee as specified in section 36-416, Idaho Code. The department shall promulgate rules implementing the provisions of this section.

(c) The expiration date for taxidermist and fur buyer's licenses shall be June 30 of the fifth year next following the date of issuance for five (5) year licenses and June 30 next following the date of issuance for one (1) year licenses.

SECTION 2. That Section 36-306, Idaho Code, be, and the same is hereby amended to read as follows:

36-306. VENDOR FEE. All persons authorized to issue licenses shall charge a vendor issuance fee of one dollar and ~~fifty~~ seventy-five cents ($1.~~50~~75) upon all licenses issued, ~~not less than one half (1/2) to~~ one dollar ($1.00) of which shall be retained by them as ~~compensation~~ for the issuance of such licenses; ~~as may be specified by contract between the license vendor and the department for license issuance services performed by the vendor;~~ provided that the vendor fee for an eighth class license as that license is provided for in section 36-406(f), Idaho Code, shall be equal to one-half (1/2) the total vendor fee had each license, tag, permit or stamp been separately issued; provided further,

the director may waive the vendor issuance fee for a license not issued by the department's computerized licensing system. ~~The amount~~ Seventy-five cents (75¢) of the vendor fee shall be retained by the department, shall be deposited in the fish and game account, and shall be used to help offset the cost of the computerized licensing system. Such vendor fee shall be charged in addition to the regular cost of the license. However, in the case of crayfish or minnow traps, beaver, bobcat or lynx tags the vendor fee shall be charged for each issuance of tags for each species regardless of the number of tags issued in said transaction. Proceeds from department issued licenses may be set aside for the department's special operations program, including citizens against poaching.

SECTION 3. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	$ ~~29.00~~31.75	$ ~~180.00~~198.00
Hunting License	~~10.00~~11.00	~~127.00~~139.75
Fishing License	~~22.00~~24.00	~~73.00~~80.25
Sr. Combination License (65 and Older)	~~3.00~~10.00	N/A
Sportsman's Pak License	~~99.50~~108.50	N/A
Jr. Combination License	~~14.50~~15.75	N/A
Jr. Hunting License	5.00~~50~~	N/A
Jr. Mentored Hunting License	N/A	5.00~~50~~
Youth Small Game License	5.00~~50~~	5.00~~50~~
Youth Hunter Education Graduate Hunting License	3.00~~25~~	3.00~~25~~
Jr. Fishing License	~~11.00~~12.00	~~11.00~~12.00
Disabled Combination License	3.00~~25~~	N/A
Disabled Fishing License	3.00~~25~~	N/A
Military Furlough Combination License	~~14.50~~15.75	N/A
Military Furlough Fishing License	~~14.50~~15.75	N/A
Small Game Hunting License	N/A	~~72.00~~80.00
Daily Fishing (1st-day) License	~~9.00~~9.75	~~9.00~~9.75
Consecutive Day Fishing License	~~4.00~~5.00	~~4.00~~5.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	~~27.00~~29.75
Nongame Hunting License	N/A	~~25.00~~27.50

(b) Sport Tags

Deer Tag	$ ~~16.50~~18.00	$ ~~233.50~~256.75
Jr. or Sr. or Disabled American Veteran Deer Tag	~~8.25~~9.00	N/A
Jr. Mentored Deer Tag	N/A	~~8.25~~9.00
Elk Tag	~~27.00~~29.00	~~337.00~~370.75
Jr. or Sr. or Disabled American Veteran Elk Tag	~~13.50~~14.75	N/A
Jr. Mentored Elk Tag	N/A	~~13.50~~14.75
Bear Tag	~~9.00~~9.75	~~233.50~~150.00
Jr. or Sr. or Disabled American Veteran Bear Tag	~~4.50~~5.00	N/A
Jr. Mentored Bear Tag	N/A	~~4.50~~5.00
Turkey Tag	~~16.50~~18.00	~~60.00~~65.75

Jr. or Sr. or Disabled American Veteran Turkey Tag	~~8.25~~9.00	N/A
Jr. Mentored Turkey Tag	N/A	~~8.25~~9.00
Mountain Lion Tag	~~9.00~~9.75	~~233.50~~150.00
Antelope Tag	~~27.00~~29.50	~~233.50~~256.75
Moose Tag	~~150.00~~165.00	~~1,500.00~~1,750.00
Sheep Tag	~~150.00~~165.00	~~1,500.00~~1,750.00
Goat Tag	~~150.00~~165.00	~~1,500.00~~1,750.00
Sandhill Crane Tag	~~16.50~~18.00	~~60.00~~65.75
(c) Sport Permits		
Bear Baiting Permit	$ ~~10.00~~11.00	$ ~~10.00~~11.00
Hound Hunter Permit	~~10.00~~11.00	~~127.00~~100.00
WMA Pheasant Permit	~~20.00~~22.00	~~20.00~~22.00
Archery Permit	~~15.00~~16.50	~~15.00~~16.50
Muzzleloader Permit	~~15.00~~16.50	~~15.00~~16.50
Salmon Permit	~~10.00~~11.00	~~10.00~~11.00
Steelhead Permit	~~10.00~~11.00	~~10.00~~11.00
Federal Migratory Bird Harvest Info. Permit	0.00	0.00
Handicapped Archery Permit	0.00	0.00
2-Pole Fishing Permit	~~11.00~~12.00	~~11.00~~12.00
Controlled Hunt Permit	6.00	6.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	$ ~~60.00~~65.75	$ ~~60.00~~65.75
Falconry Permit	~~25.00~~27.25	N/A
Falconry Capture Permit	N/A	~~127.00~~139.75
Jr. Trapping License	5.00~~50~~	N/A
Trapping License	25.00	250.00
Taxidermist-Fur Buyer License		
5 year license	~~35.00~~175.00	~~125.00~~N/A
1 year license	38.25	139.00
Shooting Preserve Permit	~~300.00~~329.75	N/A
Commercial Wildlife Farm License	~~125.00~~137.50	N/A
Commercial Fishing License	~~100.00~~110.00	~~200.00~~220.00
Wholesale Steelhead License	~~150.00~~165.00	~~150.00~~165.00
Retail Steelhead Trout Buyer's License	~~30.00~~33.00	~~30.00~~33.00
(e) Commercial Tags		
Bobcat Tag ~~(Not-to-exceed)~~	$ ~~7.50~~8.25	$ ~~7.50~~8.25
Lynx Tag ~~(Not-to-exceed)~~	~~7.50~~8.25	~~7.50~~8.25
Beaver Tag ~~(Not-to-exceed)~~	5.00~~50~~	5.00~~50~~
Net Tag	5~~0~~5.00	5~~0~~5.00
Crayfish/Minnow Tag	1.00~~25~~	1.00~~25~~
(f) Miscellaneous-Other Licenses		
Duplicate License	$ 5.00~~50~~	$ 5.00~~50~~
Shooting Preserve License	~~10.00~~11.00	~~10.00~~11.00
Captive Wolf License	~~20.00~~22.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	$ 5.00~~50~~	$ 5.00~~50~~
Wild Bird Shooting Preserve Tag	5.00~~50~~	5.00~~50~~
(h) Miscellaneous-Other Permits-Points		
Falconry In-State Transfer Permit	$ 5.00~~50~~	$ N/A
Falconry Meet Permit	N/A	~~20.00~~21.75
Private Park Permit	~~20.00~~21.75	~~20.00~~21.75
Wildlife Import Permit	~~20.00~~21.75	~~20.00~~21.75
Wildlife Export Permit	~~10.00~~11.00	~~10.00~~11.00

Wildlife Release Permit	~~10.00~~11.00	~~10.00~~11.00
Captive Wildlife Permit	~~20.00~~21.75	~~20.00~~21.75
Fishing Tournament Permit	~~20.00~~21.75	~~20.00~~21.75
Dog Field Trial Permit	~~30.00~~33.00	~~30.00~~33.00
Live Fish Transport Permit	~~20.00~~21.75	~~20.00~~21.75
Controlled Hunt Application Fee	4.50	4.50
Nursing Home Fishing Permit	~~30.00~~33.00	N/A

Approved April 14, 2005.

CHAPTER 380
(S.B. No. 1229)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AMENDING SECTION 1, CHAPTER 138, LAWS OF 2004, TO REVISE SPENDING AUTHORITY BETWEEN PROGRAMS AND EXPENSE CLASSES FOR FISCAL YEAR 2004; DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

A. RENAL DISEASE:	
FOR:	
Operating Expenditures	$ 53,600
Trustee and Benefit Payments	508,100
TOTAL	$ 561,700
FROM:	
General Fund	$ 561,700
B. VOCATIONAL REHABILITATION:	
FOR:	
Personnel Costs	$ 7,276,000
Operating Expenditures	1,353,800
Trustee and Benefit Payments	9,053,400
TOTAL	$17,683,200
FROM:	
General Fund	$ 3,118,400
Federal Grants Fund	13,547,700
Rehabilitation Revenue and Refunds Fund	609,000
Miscellaneous Revenue Fund	408,100
TOTAL	$17,683,200
C. EPILEPSY SERVICES:	
FOR:	
Trustee and Benefit Payments	$ 70,300
FROM:	
General Fund	$ 70,300

D. CSE WORK SERVICES:

FOR:	
Personnel Costs	$ 108,600
Operating Expenditures	25,000
Trustee and Benefit Payments	3,838,600
TOTAL	$ 3,972,200
FROM:	
General Fund	$ 3,972,200
GRAND TOTAL	$22,287,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty (150) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. That Section 1, Chapter 138, Laws of 2004, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2004, through June 30, 2005:

A. RENAL DISEASE:

FROM:	
General Fund	$ 550,800
FOR:	
Operating Expenditures	$ 53,600
Trustee and Benefit Payments	497,200
TOTAL	$ 550,800

B. VOCATIONAL REHABILITATION:

FROM:	
General Fund	$ ~~3,068,000~~ 3,072,000
Federal Grants Fund	~~13,254,400~~ 13,290,500
Rehabilitation Revenue and Refunds Fund	609,000
Miscellaneous Revenue Fund	408,100
TOTAL	$~~17,339,500~~ 17,379,600
FOR:	
Personnel Costs	$ 7,173,100
Operating Expenditures	1,342,100
Trustee and Benefit Payments	~~8,824,300~~ 8,864,400
TOTAL	$~~17,339,500~~ 17,379,600

C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 70,300
FOR:	
Trustee and Benefit Payments	$ 70,300
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ ~~78,700~~
	74,700
Federal Grants Fund	~~204,400~~
	168,300
Miscellaneous Revenue Fund	19,100
TOTAL	$ ~~302,200~~
	262,100
FOR:	
Personnel Costs	$ 112,100
Operating Expenditures	80,100
Trustee and Benefit Payments	~~110,000~~
	69,900
TOTAL	$ ~~302,200~~
	262,100
E. CSE WORK SERVICES:	
FROM:	
General Fund	$ 3,970,800
FOR:	
Personnel Costs	$ 100,000
Operating Expenditures	~~25,000~~
	78,100
Capital Outlay	29,800
Trustee and Benefit Payments	~~3,845,800~~
	3,762,900
TOTAL	$ 3,970,800
GRAND TOTAL	$22,233,600

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval; and the remaining sections of this act shall be in full force and effect on and after July 1, 2005.

Approved April 14, 2005.

CHAPTER 381
(S.B. No. 1231)

AN ACT

DIRECTING THE STATE CONTROLLER TO TRANSFER CERTAIN FUNDS; DIRECTING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE A ONE-TIME DISTRIBUTION OF FUNDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Controller shall transfer $5,000,000 from the Budget Stabilization Fund to the Public Education Stabilization Fund by no later than June 30, 2005.

SECTION 2. Of the moneys appropriated in Section 3, Chapter 342, Laws of 2004, the Superintendent of Public Instruction shall make a one-time distribution of moneys to school districts that receive a reduction of state funds as a result of the implementation of Section 33-1002C(3), Idaho Code, for the period July 1, 2004, through June 30, 2005, in a like amount as the reduction received.

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 April 14, 2005.

CHAPTER 382
(S.B. No. 1232)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING CERTAIN REALLOCATIONS OF FEDERAL FUNDS.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:				
FROM:				
General Fund	$3,025,300	$1,256,300	$ 967,700	$ 5,249,300
Driver's Education Fund	147,400	147,900	2,073,900	2,369,200
Public Instruction Fund	359,300	844,000	11,200	1,214,500
Student Tuition Recovery Fund		5,300	49,600	54,900
Federal Grant Fund	3,209,600	3,727,200		6,936,800
Indirect Cost Recovery Fund	405,100	191,000		596,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Data Processing Services Fund		38,200		38,200
Miscellaneous Revenue Fund	201,400	65,000		266,400
TOTAL	$7,348,100	$6,274,900	$3,102,400	$16,725,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred twenty-four (124) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. At the direction of the State Board of Education, and only to the extent permitted by federal law, the state department shall utilize the allocation adjustment process to reallocate up to $365,100 in federal grant funds to the Idaho Virtual Academy, based on the Idaho Virtual Academy having the status of a local education agency (LEA), beginning on July 1, 2003, for the purposes of receiving federal grant funds.

Approved April 14, 2005.

CHAPTER 383
(S.B. No. 1233)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2006; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$1,304,900	$ 634,900		$ 51,600	$1,991,400
Federal Grant Fund	807,200	143,900		69,500	1,020,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Economic Recovery Reserve Fund		50,000	$260,000		310,000
Miscellaneous Revenue Fund	123,000	332,000		54,600	509,600
TOTAL	$2,235,100	$1,160,800	$260,000	$175,700	$3,831,600
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 165,000	$ 43,600			$ 208,600
Miscellaneous Revenue Fund	167,800	127,500			295,300
TOTAL	$ 332,800	$ 171,100			$ 503,900
GRAND TOTAL	$2,567,900	$1,331,900	$260,000	$175,700	$4,335,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than forty-six and thirty-six hundredths (46.36) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 14, 2005.

CHAPTER 384
(S.B. No. 1234)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING RESOURCE SHARING; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE COST OF ADMINISTRATION OF FEDERAL GRANTS AND REQUIRING A REPORT.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:				
FROM:				
General Fund	$1,270,600	$3,228,400	$ 85,900	$ 4,584,900
Federal Grant Fund	379,300	5,868,300	691,300	6,938,900
Miscellaneous Revenue Fund	2,000	120,900	10,000	132,900
TOTAL	$1,651,900	$9,217,600	$787,200	$11,656,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Legislature reaffirms that the Division of Professional-Technical Education and the Office of the State Board of Education each play unique and vital roles in the state's educational system. The Legislature authorizes these agencies to share administrative resources only to the extent necessary to achieve readily obtainable administrative efficiencies. The shared resources authorized in this section shall be narrowly defined as human resources, information technology, reception and the fiscal activities of accounts payable, payroll processing and financial statement preparation. Each division administrator shall retain management decision-making autonomy over their respective divisions. The employees of the Division of Professional-Technical Education shall not be considered or used as adjunct staff by the Office of the State Board of Education. Under no circumstances shall this arrangement impair the individual ability of these agencies to fulfill their individual missions. This authorization is automatically withdrawn to the extent it is found to be inconsistent with laws or regulations pertaining to the use of federal or dedicated funds. The Legislature shall review this authorization each year and reserve its prerogative to withdraw it at any time.

SECTION 4. It is legislative intent that the Office of the State Board of Education make every effort to minimize costs associated with federal grant administration, in order to maximize the amount of federal grant funds passed through to recipients. The Office of the State Board of Education shall report the following information to the Joint Finance-Appropriations Committee at its fall 2005 interim meeting:

(1) For each federal grant administered by the Office of the State Board of Education in state fiscal year 2005, the amount of money allowed to be spent at the state level, the categories of permissi-

ble expenditures, and the amount of money that must be passed through to recipients; and

(2) For each federal grant administered by the Office of the State Board of Education in state fiscal year 2005, the amount of money actually spent at the state level, the categories of actual expenditures, and the amount of money actually passed through to recipients.

Approved April 14, 2005.

CHAPTER 385
(S.B. No. 1235)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2006; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION; EXPRESSING LEGISLATIVE INTENT REGARDING RESOURCE SHARING; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE GOVERNANCE OF THE CAREER INFORMATION SYSTEM.

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

SECTION 1. There is hereby appropriated to the State Board for Professional-Technical Education the following amounts to be expended by the Division of Professional-Technical Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:					
FROM:					
General Fund	$1,602,100	$241,500			$ 1,843,600
Federal Grant Fund	317,300	27,800			345,100
TOTAL	$1,919,400	$269,300			$ 2,188,700
II. GENERAL PROGRAMS:					
FROM:					
General Fund	$ 221,100	$ 37,800	$10,369,400		$10,628,300
Hazardous Materials/ Waste Enforcement Fund			68,800		68,800
Federal Grant Fund	160,900	13,500	4,954,200		5,128,600
TOTAL	$ 382,000	$ 51,300	$15,392,400		$15,825,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
III. POSTSECONDARY PROGRAMS:					
FROM:					
General Fund				$33,675,700	$33,675,700
Unrestricted Current Fund				434,100	434,100
TOTAL				$34,109,800	$34,109,800
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
General Fund			$ 234,600		$ 234,600
Displaced Homemaker Fund			170,000		170,000
Federal Grant Fund			2,053,600		2,053,600
TOTAL			$ 2,458,200		$ 2,458,200
V. CAREER INFORMATION SYSTEM:					
FROM:					
General Fund	$ 175,200	$ 25,700			$ 200,900
Miscellaneous Revenue Fund	236,400	118,600			355,000
Federal Grant Fund	82,800	39,600			122,400
TOTAL	$ 494,400	$183,900			$ 678,300
GRAND TOTAL	$2,795,800	$504,500	$17,850,600	$34,109,800	$55,260,700

SECTION 2. There is hereby reappropriated to the State Board for Professional-Technical Education for the Division of Professional-Technical Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 142, Laws of 2004, to be used for nonrecurring expenditures, for the period July 1, 2005, through June 30, 2006.

SECTION 3. The reappropriation for the General Fund moneys granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is zero, the reappropriation for the General Fund moneys in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2005, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. The Legislature reaffirms that the Division of Professional-Technical Education and the Office of the State Board of Education each play unique and vital roles in the state's educational system. The Legislature authorizes these agencies to share administrative resources only to the extent necessary to achieve readily obtainable administrative efficiencies. The shared resources authorized in this section shall be narrowly defined as human resources, information technology, reception and the fiscal activities of accounts payable, payroll processing and financial statement preparation. Each division administrator shall retain management decision-making autonomy over their respective divisions. The employees of the Division of Professional-Technical Education shall not be considered or used as adjunct staff by the Office of the State Board of Education. Under no circumstances shall this arrangement impair the individual ability of these agencies to fulfill their individual missions. This authorization is automatically withdrawn to the extent it is found to be inconsistent with laws or regulations pertaining to the use of federal or dedicated funds. The Legislature shall review this authorization each year and reserves its prerogative to withdraw it at any time.

SECTION 5. It is legislative intent that the Career Information System retain its current governing structure under the Idaho State Occupational Information Coordinating Committee, as defined in Executive Order Number 2002-02.

Approved April 14, 2005.

CHAPTER 386
(S.B. No. 1237)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2006.

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

SECTION 1. In addition to the appropriation provided in Section 1, of Senate Bill No. 1176, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, there is hereby appropriated to the Department of Fish and Game the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Fish and Game Fund (Licenses)		$293,900	$ 30,000	$ 323,900
Fish and Game Fund (Federal)		15,600	20,000	35,600
TOTAL		$309,500	$ 50,000	$ 359,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. FISHERIES:				
FROM:				
Fish and Game Fund (Licenses)	$ 16,000	$115,000	$ 84,600	$ 215,600
Fish and Game Fund (Other)	3,300	12,900		16,200
Fish and Game Set-aside Fund (Other)	24,200			24,200
Fish and Game Fund (Federal)	73,000	76,500	108,200	257,700
TOTAL	$116,500	$204,400	$192,800	$ 513,700
III. WILDLIFE:				
FROM:				
Fish and Game Fund (Licenses)	$ 92,500	$364,700	$ 7,000	$ 464,200
Fish and Game Fund (Other)		600		600
Fish and Game Set-aside Fund (Other)		18,500		18,500
Fish and Game Fund (Federal)	4,800	23,900		28,700
TOTAL	$ 97,300	$407,700	$ 7,000	$ 512,000
IV. COMMUNICATIONS:				
FROM:				
Fish and Game Fund (Licenses)		$ 22,200	$ 3,500	$ 25,700
Fish and Game Fund (Other)	$ 14,700			14,700
Fish and Game Set-aside Fund (Other)	11,700			11,700
Fish and Game Fund (Federal)	24,900			24,900
TOTAL	$ 51,300	$ 22,200	$ 3,500	$ 77,000
V. WINTER FEEDING AND HABITAT IMPROVEMENT:				
FROM:				
Fish and Game Fund (Licenses)	$ 3,200			$ 3,200
Fish and Game Set-aside Fund (Licenses)		$ 1,400		1,400
TOTAL	$ 3,200	$ 1,400		$ 4,600
GRAND TOTAL	$268,300	$945,200	$253,300	$1,466,800

Approved April 14, 2005.

CHAPTER 387
(H.B. No. 36, As Amended in the Senate)

AN ACT

RELATING TO COMMERCIAL FERTILIZERS; AMENDING CHAPTER 6, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-626, IDAHO CODE, TO PROHIBIT LOCAL REGULATION AND LEGISLATION RELATING TO FERTILIZERS, TO PROVIDE THAT LOCAL ORDINANCES RELATING TO FERTILIZERS ARE VOID AND UNENFORCEABLE AND TO CLARIFY THAT SPECIFIED RESTRICTIONS SHALL NOT PREEMPT CERTAIN COUNTY OR CITY LOCAL ZONING ORDINANCES.

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

SECTION 1. That Chapter 6, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-626, Idaho Code, and to read as follows:

22-626. LOCAL LEGISLATION -- PROHIBITION. (1) No local government entity including, but not limited to, any city, county, township, or municipal corporation or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state of Idaho, shall:

(a) Regulate the registration, packaging, labeling, sale, storage, distribution, use and application of fertilizers;

(b) Adopt or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use or application of fertilizers.

(2) Ordinances adopted by the local government entity in violation of this section are void and unenforceable.

(3) The provisions of subsections (1) and (2) of this section shall not preempt county or city local zoning ordinances governing the physical location or siting of fertilizer manufacturing, storage and sales facilities or protecting the quality of ground water or surface water in accordance with applicable state and federal law.

Approved April 14, 2005.

CHAPTER 388
(H.B. No. 37, As Amended in the Senate)

AN ACT

RELATING TO SOIL AND PLANT AMENDMENTS; AMENDING CHAPTER 22, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2226, IDAHO CODE, TO PROHIBIT LOCAL REGULATION AND LEGISLATION RELATING TO SOIL AND PLANT AMENDMENTS, TO PROVIDE THAT LOCAL ORDINANCES RELATING TO SOIL AND PLANT AMENDMENTS ARE VOID AND UNENFORCEABLE AND TO CLARIFY THAT SPECIFIED RESTRICTIONS SHALL NOT PREEMPT CERTAIN COUNTY OR CITY LOCAL ZONING ORDINANCES.

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

SECTION 1. That Chapter 22, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2226, Idaho Code, and to read as follows:

22-2226. LOCAL LEGISLATION -- PROHIBITION. (1) No local government entity including, but not limited to, any city, county, township, or municipal corporation or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state of Idaho, shall:

(a) Regulate the registration, packaging, labeling, sale, storage, distribution, use and application of soil and plant amendments;

(b) Adopt or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use or application of soil and plant amendments.

(2) Ordinances adopted by the local government entity in violation of this section are void and unenforceable.

(3) The provisions of subsections (1) and (2) of this section shall not preempt county or city local zoning ordinances governing the physical location or siting of soil and plant amendment manufacturing, storage and sales facilities or protecting the quality of ground water or surface water in accordance with applicable state and federal law.

Approved April 14, 2005.

CHAPTER 389
(H.B. No. 240)

AN ACT

RELATING TO THE IDAHO BOND BANK AUTHORITY; AMENDING SECTION 67-8702, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 67-8705, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE AUTHORITY; AMENDING SECTION 67-8710, IDAHO CODE, TO CLARIFY THAT THE AUTHORITY MAY PLEDGE THE PROCEEDS OF MUNICIPAL BONDS PURCHASED FROM OTHER SELLERS; AMENDING SECTION 67-8712, IDAHO CODE, TO CLARIFY THAT MUNICIPAL BONDS MAY BE PURCHASED FROM SOURCES OTHER THAN MUNICIPALITIES; AMENDING SECTION 67-8713, IDAHO CODE, TO PROVIDE THAT THE RESERVE FUND WILL SECURE BONDS DESIGNATED BY THE AUTHORITY; AMENDING SECTION 67-8716, IDAHO CODE, TO AUTHORIZE THE AUTHORITY TO ELECT TO NOT PROVIDE FOR SALES TAX PAYMENT ON DESIGNATED BONDS AND TO CLARIFY THE PROCESS FOR PAYMENT OF SALES TAX MONEYS IF OTHER SOURCES ARE NOT SUFFICIENT; AMENDING SECTION 67-8725, IDAHO CODE, TO PROVIDE FOR BONDS WHERE NO INTERCEPT OCCURS, TO CLARIFY THAT PROVISIONS FOR INTERCEPTING A MUNICIPALITY'S FUNDS TO PAY MUNICIPAL BONDS APPLY ONLY TO MUNICIPALITIES THAT HAVE AGREED TO BE SUBJECT TO SUCH INTERCEPT AND THAT ONLY FUNDS LAWFULLY AVAILABLE FOR REPAYMENT OF A MUNICIPALITY'S BONDS MAY BE INTERCEPTED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-8727, IDAHO CODE, TO REVISE THE ALTERNATIVE INTERCEPT PROCEDURE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 87, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-8728, IDAHO CODE, TO PROVIDE A LIMITED EXEMPTION FROM INTERCEPT PROVISIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-8702, Idaho Code, be, and the same is hereby amended to read as follows:

67-8702. DEFINITIONS. As used in this chapter:

(1) "Authority" or "bond bank authority" means the Idaho bond bank authority.

(2) "Bonds" means bonds, notes or other obligations of the authority issued under this chapter.

(3) "Municipal bond" means a bond, note or other obligation, including a loan, lease or installment sale agreement, issued or undertaken by a municipality for any purpose authorized by law.

(4) "Municipality" means any county, city, municipal corporation, school district, irrigation district, sewer district, water district, highway district or other special purpose district or political subdivision of the state established by law.

(5) "State sales tax account" means any fund or account in the state treasury in which state sales tax moneys are deposited, but only to the extent moneys in such fund or account are attributable to the state sales tax moneys.

SECTION 2. That Section 67-8705, Idaho Code, be, and the same is hereby amended to read as follows:

67-8705. POWERS AND DUTIES OF THE AUTHORITY. The authority shall have the following powers and duties:

(1) To sue and be sued in its own name;

(2) To adopt and from time to time alter an official seal;

(3) To adopt and from time to time amend or repeal rules and bylaws;

(4) To accept and receive public grants or private gifts, bequests or other moneys;

(5) To purchase municipal bonds on original issue or previously issued, from the municipality issuer or from any other source, and to obtain funds for such other purposes of the authority authorized by this chapter by:

(a) Issuing bonds payable from or secured by municipal bonds of one (1) or more municipalities;

(b) Pledging or otherwise obligating, for and in the name and on behalf of the state as its agent and instrumentality, sales tax revenues of the state as a source of payment or security for bonds issued by the authority;

(c) Establishing debt service reserve funds or other reserve funds;

(d) Obtaining private credit enhancement for bonds issued by the authority;

(e) Investing moneys held by the authority, as proceeds or to pay or secure bonds issued by the authority, in such securities or obligations as are described in the indenture, trust agreement or other instrument providing for the authority's issuance of the bonds;

(f) Investing any moneys held by the authority, in excess of funds described in paragraph (e) of this subsection, in any securities or other obligations in which a trustee may invest as provided by law;

(g) Taking any other actions and entering into such other contracts

and agreements as the authority may determine to be necessary or appropriate to accomplish the purposes of the authority and this chapter; or

(h) Facilitating the purchase of notes from municipalities to be utilized by a municipality in purchasing, leasing or lease-purchasing tangible personal property when the note was otherwise legally issued and authorized by a municipality and the purchase of the note from a municipality does not violate the state constitution.

(6) To charge such fees to municipalities or other potential sellers of municipal bonds in connection with application for and receipt of financing under this chapter and interest and other charges on or in connection with municipal bonds purchased as it may deem necessary or appropriate to cover all costs and expenses of the authority and its operations, and to set such other terms and conditions on its services or purchase of municipal bonds as may be necessary or appropriate to secure the bonds or improve their marketability or to otherwise achieve the purposes of the authority; and

(7) To take any and all actions, execute any and all contracts, including payment of any arbitrage rebate as may be necessary to obtain or maintain exemption of interest on bonds issued by the authority from federal income taxes; provided however, that nothing shall prevent the authority from issuing bonds bearing interest subject to federal income tax; and

(8) To develop underwriting policies or guidelines in connection with municipal bonds purchased by the authority.

SECTION 3. That Section 67-8710, Idaho Code, be, and the same is hereby amended to read as follows:

67-8710. ISSUANCE OF BONDS -- FORM OF ISSUANCE -- SALE PRICE -- PAYMENT OR REFUNDING OF BONDS -- TERMS OF AGREEMENT WITH BONDHOLDER. (1) The authority may issue its bonds from time to time in principal amounts that it considers necessary to provide funds for any purpose under this chapter, including, without limitations, to purchase municipal bonds, to fund reserves or to pay costs of issuance, refunding, including redemption premium, credit enhancement, or other matters related to the purpose, structure or marketing of the bonds.

(2) Bonds shall be authorized by resolution of the authority and shall bear the date, mature at the time or times, bear interest at the rate or rates of fixed or variable interest, payable at the times, be in the denominations, be in the forms, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places inside or outside the state, and be subject to the terms of redemption, with or without premium, rights of holders to tender for purchase and other terms and conditions as the resolution of the authority provides.

(3) Bonds of the authority may be issued in one (1) or more series.

(4) Bonds of the authority may be sold at public or private sale at the price or prices the authority determines.

(5) The authority may, from time to time, issue its bonds under this chapter and pay and retire, or fund or refund previously issued bonds from proceeds of refunding bonds, or from other funds or money of the authority available for that purpose.

(6) By resolution, the authority may authorize entering into an indenture or trust agreement with a corporate trustee located within or outside the state in order:

(a) To provide for the issuance of the bonds with such terms, including without limitation those terms referred to in subsection (2) of this section, as the authority may determine;

(b) To pledge or assign to the trustee for the benefit of holders of the bonds all or any part of the proceeds of the bonds, any municipal bonds purchased from municipalities or other sellers, any other assets or revenues of or received by or pledged to the authority, and the income or other proceeds from any or all of the foregoing;

(c) To provide for the establishment of reserves and any other funds or accounts that the authority determines to be necessary or appropriate, in addition to or in lieu of the reserve fund established pursuant to section 67-8713, Idaho Code, which will secure all bonds issued by the authority unless the resolution of the authority providing for issuance of the bonds provides otherwise;

(d) To provide for the custody, safekeeping and enforcement of the municipal bonds acquired;

(e) To provide for the right to sell or otherwise dispose of property of any kind, including municipal bonds;

(f) To provide for the investment of bond proceeds or other moneys held by the trustee in such securities or obligations as may be described in the indenture or trust agreement;

(g) To provide for amending the indenture or trust agreement, with or without the consent of the holders of the bonds;

(h) To provide for the replacement of lost, stolen, destroyed or mutilated bonds;

(i) To provide for the issuance or limitations on issuance of additional bonds;

(j) To provide for the rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, to limit the rights of bondholders to enforce covenants, conditions or obligations, and to prescribe the events of default and the terms and conditions upon which any or all of the bonds become or may be declared due and payable before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;

(k) To appoint and to provide for the duties and obligations of a paying agent or agents or other fiduciaries inside or outside the state;

(l) To make covenants to do or refrain from doing acts, including to enter into any contract, and to provide any other terms and conditions which the authority may determine to be necessary or appropriate in order to better secure the bonds or improve their marketability; and

(m) To intercept certain payments, and to impose interest and penalties, as provided in section 67-8725, Idaho Code.

SECTION 4. That Section 67-8712, Idaho Code, be, and the same is hereby amended to read as follows:

67-8712. PRESUMPTION OF VALIDITY. After issuance, all bonds of the authority, and the purchase of all municipal bonds ~~from--municipalities~~

with the proceeds of the bonds, and any contracts entered into in connection with issuance of the bonds, shall be conclusively presumed to be fully authorized and issued under the laws of the state, and all persons, entities and municipalities are estopped from questioning the authorization, sale, issuance, execution or delivery of the bonds and other agreements by the authority.

SECTION 5. That Section 67-8713, Idaho Code, be, and the same is hereby amended to read as follows:

67-8713. RESERVE FUND -- ADDITIONAL FUNDS AND ACCOUNTS. (1) There is hereby created in the state treasury a fund to be known as the "Idaho Municipal Bond Bank Authority Reserve Fund" (hereinafter referred to as "reserve fund") in which there shall be deposited or transferred:

(a) All proceeds of bonds or municipal bonds or any reserve surety policy or similar credit enhancement obtained to secure bonds of the authority that the authority may require, by contract with the municipality or by a resolution of the authority, to be deposited in the reserve fund; and

(b) All moneys appropriated by the legislature for the purpose of the fund.

(2) Moneys in the reserve fund shall be maintained by the authority and are pledged and shall be held and applied solely to the payment of the interest on and principal of those bonds designated by the authority, pursuant to the provisions of section 67-8725, Idaho Code, as the interest and principal become due and payable. Moneys may not be withdrawn from the reserve fund if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, as herein defined, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other than moneys of the authority pledged to pay such interest and principal are not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution of the authority.

(3) For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the moneys or investments in the reserve fund.

(4) Moneys in the reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds.

(5) In order to assure the maintenance of the required debt service reserve in the reserve fund, the legislature may annually appropriate to the authority for deposit in the reserve fund the sum, certified by the chairman of the authority to the legislature, that is necessary to restore the fund to an amount equal to the required debt service reserve. The chairman of the authority, annually before December 1, shall make and deliver to the legislature his certificate stating the sum required to restore the funds to that amount. Nothing in this sub-

section creates a debt or liability of the state to make any appropriation.

(6) All amounts received on account of moneys appropriated by the state to the reserve fund shall be held and applied in accordance with this section; provided however, at the end of each fiscal year, if the amount in the reserve fund derived from amounts appropriated by the legislature exceeds the required debt service reserve, any amount representing earnings or income received on account of moneys appropriated to the reserve fund by the legislature that exceed the expenses of the authority for that fiscal year shall be transferred to the general fund of the state.

(7) The authority may establish subaccounts in the reserve fund, additional reserves or other funds or accounts as may be, in its discretion, necessary or appropriate to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

SECTION 6. That Section 67-8716, Idaho Code, be, and the same is hereby amended to read as follows:

67-8716. UNLIMITED SALES TAX ACCOUNT PLEDGE. (1) If moneys expected to be intercepted pursuant to section 67-8725, Idaho Code, are expected to be insufficient to reimburse the state for its payments in respect of the municipal bonds, except for bonds the authority has specifically designated, at the time of issuance, not to receive payment from the sales tax, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(2) If sufficient moneys are not available to pay debt service on the bonds, except for bonds the authority has specifically designated not to receive payment from the sales tax, as of five (5) days prior to the scheduled payment date of the bonds, the state treasurer shall give notice to the state tax commission. certifying the amount of the deficiency, at least five (5) days prior to the scheduled payment date. After receipt of the certified notice from the state treasurer pursuant to section 67-8727, Idaho Code, or subsection (1) of this section or this subsection (2), the state tax commission shall:

(a) Immediately fix the amount necessary and in the amount of the deficiency stated in the notice; and

(b) Cause ~~moneys to be transferred from the~~ state sales tax moneys subject to distribution under section 63-3638, Idaho Code, to be transferred from the state sales tax account ~~pursuant to section 63-3638, Idaho Code,~~ and deposited in the bond bank authority fund, which is hereby statutorily created in the state treasury; provided however, that in no event shall a transfer of moneys from the state sales tax account under the provisions of this chapter impede or otherwise affect the payment of sales tax moneys pledged for the payment on other state bonds outstanding on the effective date of this act or subsequently issued as tax anticipation notes pursuant to section 63-3202, Idaho Code.

(3) Moneys transferred from the state sales tax account to the bond bank authority fund pursuant to subsection (2) of this section shall be deposited in the reserve fund as replacement moneys for amounts withdrawn from the reserve fund to pay debt service on the bonds pursuant to section 67-8725, Idaho Code, to the extent such moneys are derived from

amounts appropriated to the reserve fund by the legislature, or shall be used to pay debt service when due on bonds for which other moneys available pursuant to section 67-8727, Idaho Code, are insufficient.

(4) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair or limit the rights vested by the sales tax account pledge provided in this section and in section 63-3638, Idaho Code, with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(5) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the transfer of moneys from the sales tax account in section 63-3638, Idaho Code, is abated.

SECTION 7. That Section 67-8725, Idaho Code, be, and the same is hereby amended to read as follows:

67-8725. PAYMENT TRANSFER -- NOTICE OF NONPAYMENT -- STATE FINANCIAL ASSISTANCE INTERCEPT MECHANISM -- STATE TREASURER DUTIES -- INTEREST AND PENALTY PROVISIONS.

(1) (a) Each municipality with outstanding unpaid municipal bonds as set forth in this chapter held by or for the authority, except for those municipal bonds described in section 67-8728, Idaho Code, and so designated by the authority at the time it issues bonds to acquire such municipal bonds, shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds. The paying agent may be the trustee for the bonds of the authority that are secured by those municipal bonds.

(b) A municipality subject to this section and chapter with regard to any municipal bonds and which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as required by this subsection, the paying agent shall notify the authority and the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(d) If sufficient moneys to pay the scheduled debt service payment have not been transferred to the paying agent at least ten (10) days before the scheduled payment date, the authority or the state treasurer shall cause sufficient moneys to be transferred from the reserve fund as provided in section 67-8713, Idaho Code, to the paying agent to make the scheduled debt service payment.

(e) To the extent moneys transferred from the reserve fund are derived from moneys appropriated to the reserve fund by the legislature, the payment by the state treasurer:

(i) Discharges the obligation of the issuing municipality to

its bondholders for the payment; and

(ii) Transfers the rights represented by the general obligation of the municipality from the bondholders to the state.

(2) (a) If one (1) or more payments on bonds are made by the state treasurer from moneys in the reserve fund that are derived from moneys appropriated to the reserve fund by the legislature, due to the failure of the municipality to make payment on its bonds in a timely manner, the state treasurer, subject to the limitations provided in paragraph (b) of this subsection shall:

(i) Immediately intercept any payments from:

(A) The receipts of any payment of property taxes; or

(B) Sales tax moneys that would be distributed pursuant to section 63-3638, Idaho Code; or

(C) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Apply the intercepted payments to reimburse the state for payments made by the state for the bonds by deposit to the reserve fund up to the amount withdrawn from the reserve fund for such purpose until all obligations of the municipality to the state arising from those payments, including interest and penalties, are paid in full.

(b) When intercepting payments under paragraph (a) of this subsection, the state treasurer shall intercept only such payments, if any, which would otherwise be lawfully available to the municipality for the repayment of its municipal bonds and further subject to the limitations of section 67-8728, Idaho Code.

(c) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(3) The municipality that issued municipal bonds for which the state has made all or part of a debt service payment, either from amounts in the reserve fund that are derived from moneys appropriated by the legislature or from moneys transferred from the state sales tax account pursuant to section 67-8716, Idaho Code, shall:

(a) Reimburse all moneys drawn by the state treasurer on its behalf;

(b) Pay interest to the state on all moneys paid by the state from the date the moneys are drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus five percent (5%); and

(c) Pay all penalties required by this chapter.

(4) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the municipality on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payments on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the municipality to make payment on its bonds in a timely manner, impose on the municipality a penalty of not more than five percent (5%) of the amount paid by the state for each instance in which a payment by the state is made.

(5)(a)(i) If the state treasurer determines that amounts obtained

under this section will not reimburse the state in full within one (1) year from the state's payment of a municipality's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the municipality to compel it to:

(A) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and

(B) Meet its repayment obligations to the state.

(ii) In pursuing its rights under paragraph (a) of this subsection, the state shall have the same substantive and procedural rights as would a holder of the bonds of a municipality.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The municipality shall pay the attorney's fees, expenses and costs of the state treasurer and the attorney general.

(6) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection.

(b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the municipality;

(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;

(iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or

(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, a municipality may not replace operating funds intercepted by the state with moneys collected and held to make payments on bonds if that replacement would divert moneys from the payment of future debt service on the bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds.

SECTION 8. That Section 67-8727, Idaho Code, be, and the same is hereby amended to read as follows:

67-8727. ALTERNATIVE INTERCEPT PROCEDURE. Notwithstanding any other provision of law to the contrary, to the extent that any bonds are not secured by moneys appropriated by the legislature to the reserve fund established pursuant to section 67-8713, Idaho Code, or such moneys are insufficient to pay debt service when due on the bonds, in lieu of the provisions set forth in section 67-8725, Idaho Code, the following provisions shall apply, provided that the provisions of section 67-8725, Idaho Code, shall continue to apply with respect to transfers of amounts in the reserve fund derived from moneys appropriated by the legislature:

(1) (a) Each municipality with outstanding unpaid municipal bonds as set forth in this chapter held by or for the authority, except for those municipal bonds described in section 67-8728, Idaho Code, and so designated by the authority at the time it issues bonds to

acquire such municipal bonds, shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds. The paying agent may be the trustee for the bonds of the authority that are secured by those municipal bonds.

(b) A municipality which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent, the authority and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as trustee for the bonds of the authority that are secured by those municipal bonds at least ten (10) days before the scheduled debt service payment date of those bonds, the trustee shall transfer any available funds pledged to secure payment of the bonds held in any reserve fund or other pledged fund, or draw on any reserve surety policy securing the bonds, sufficient amounts to make up any shortfall in the amount necessary to pay debt service on the bonds on the scheduled payment date and deposit such amount in the debt service payment fund for those bonds.

(d) If~~, as a result of the failure of the municipality to make payment on its municipal bonds in a timely manner,~~ the trustee is required to transfer funds pursuant to paragraph (c) of this subsection to pay debt service on the bonds or there are not sufficient funds available pursuant to paragraph (c) of this subsection to make up for any shortfall in the amount necessary to pay debt service on the bonds, at least ten (10) days before the scheduled debt service payment date of the bonds, the trustee shall notify the authority and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(e) Upon the notice provided in subsection (1)(d) of this section, the state treasurer, subject to the limitations provided in subsection (1)(e)(iii) of this section shall:

(i) Immediately intercept any payments from:

(A) The receipts of any payment of property taxes; or

(B) Sales tax moneys that would be distributed pursuant to section 63-3638, Idaho Code; or

(C) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Transfer the intercepted payments in the following order of priority:

(A) To the trustee for the bonds for deposit in the debt service payment fund for the bonds until there are sufficient amounts on deposit to pay debt service on the bonds on the scheduled payment date; provided that if the state treasurer will be unable to transfer sufficient intercepted payments for such purpose, the state treasurer shall give notice to the state tax commission, certifying

the amount of the deficiency, at least five (5) days prior to the scheduled payment date of the bonds;

(B) To the trustee for the bonds to reimburse any amounts transferred from a reserve or other pledged fund or surety policy pursuant to paragraph (c) of this subsection up to the required balance in such fund or required reimbursement of such surety; and

(C) To the state for the reimbursement of any moneys transferred from the state sales tax account pursuant to section 67-8716, Idaho Code, to pay debt service on the bonds on the scheduled payment date, together with any interest or penalties established pursuant to section 67-8725, Idaho Code;

(iii) When intercepting payments under this subsection, the state treasurer shall intercept only such payments, if any, which would otherwise be lawfully available to the municipality for the repayment of its municipal bonds and further subject to the limitations of section 67-8728, Idaho Code.

(f) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(2) (a) The municipal bonds or the agreement for purchase of the municipal bonds by the authority may provide for payment of interest and penalties and other terms for reimbursement of any amounts drawn from reserve funds, pledged funds, reserve surety policies or other credit enhancement to pay debt service on the bonds due to the failure of the municipality to make payment on its municipal bonds in a timely manner. To the extent that debt service on the bonds is paid from the state sales tax account pursuant to section 67-8716, Idaho Code, the provisions of sections 67-8725(3), (4) and (5), Idaho Code, shall apply.

(b) If the authority determines that amounts obtained under this section will not fully make up any amounts which a municipality has failed to pay on its municipal bonds when due, together with any interest and penalties established pursuant to this section, within one (1) year from the payment of the municipality's scheduled debt service payment, the authority or the trustee for the bonds may pursue any legal action, including mandamus, against the municipality to compel the municipality to:

(i) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and

(ii) Meet its repayment obligations, under its municipal bonds or otherwise, to the authority.

(c) In pursuing their rights under this subsection, the authority and the trustee shall have the same substantive and procedural rights as a holder of the bonds of a municipality.

(d) The attorney general shall assist the authority in carrying out its duties under this subsection.

(e) The municipality shall pay the attorney's fees, expenses and costs of the authority, the trustee and the attorney general.

(~~4~~3) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this

section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection.

(b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the municipality;

(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;

(iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or

(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of subsections (43) (a) and (b) of this section, a municipality may not replace operating funds intercepted by the state with moneys collected and held to make payments on bonds if that replacement would divert moneys from the payment of future debt service on the bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds.

SECTION 9. That Chapter 87, 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 67-8728, Idaho Code, and to read as follows:

67-8728. LIMITED EXEMPTION FROM INTERCEPT PROVISIONS. (1) The intercept provisions provided for by sections 67-8725 and 67-8727, Idaho Code, shall not apply to:

(a) Municipal bonds where a municipality has the authority through an election held and results certified pursuant to section 3, article VIII of the constitution of the state of Idaho to collect revenues sufficient to pay the interest and principal of such municipal bonds;

(b) Municipal bonds which are local improvement bonds issued under chapter 17, title 50, Idaho Code; or

(c) Municipal bonds purchased by the authority from proceeds of bonds, which the authority has designated at the time its bonds are issued, not to receive payment from the sales tax.

(2) Any municipality seeking either of the limited exemptions set forth in subsection (1)(a) or (1)(b) of this section shall do so through a resolution of the municipality duly adopted indicating that the municipality meets the requirements for this limited exemption.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 14, 2005.

CHAPTER 390
(H.B. No. 313)

AN ACT

RELATING TO BOND ISSUES BY THE STATE, POLITICAL SUBDIVISIONS AND OTHER PUBLIC ENTITIES; AMENDING SECTION 67-1222, IDAHO CODE, TO REVISE INFORMATION ON REPORTS TO BE FILED WITH THE STATE TREASURER REGARDING BOND ISSUES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-1222, Idaho Code, be, and the same is hereby amended to read as follows:

67-1222. REPORTS TO BE FILED -- BOND ISSUES. Any department or agency of the state of Idaho, political subdivision, municipal corporation, state university or college, school or other special district, joint agreement entity, public authority, public trust, nonprofit corporation or other organization authorized by the laws of the state of Idaho to issue bonds shall submit to the state treasurer a report as required by this section. The report shall include, but not be limited to, the following information: the borrower, the amount of the issue, interest ~~dates including coupon and yield to investor~~ rate, date of the bonds, maturity ~~schedule including the amount and~~ date, the redemption features, ~~bond counsel, financial advisor, the costs to issue--including fees and underwriter's compensation,~~ and a description of the project to be financed. The state treasurer shall promulgate ~~regulations~~ rules necessary to implement the provisions of this section.

Approved April 14, 2005.

CHAPTER 391
(H.B. No. 325)

AN ACT

RELATING TO CHILD CUSTODY AND PROTECTION; AMENDING SECTION 6-210, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 6-1903, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE FOR JURISDICTION FOR ADOPTIONS ARISING FROM CHILD PROTECTIVE ACT CASES, TO MAKE GRAMMATICAL CHANGES AND TO REVISE A CODE REFERENCE; AMENDING SECTION 16-1513, IDAHO CODE, TO REVISE CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1602, IDAHO CODE, TO REVISE DEFINITIONS, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1603, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 16-1619, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1620, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE A CODE REFERENCE; AMENDING SECTION 16-1620A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1612, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REMOVE REFERENCES TO PERSONS APPOINTED BY THE COURT, TO

REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1613, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REMOVE REFERENCES TO PERSONS APPOINTED BY THE COURT, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1605, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT THE PROSECUTING ATTORNEY OR THE ATTORNEY GENERAL MAY FILE A PETITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1606, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1607, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1607A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1618, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1614, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1609, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS APPLICABLE TO INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1609A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1609B, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1608, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE REQUIRED FINDINGS, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1620, IDAHO CODE, TO PROVIDE FOR A PERMANENCY PLAN AND HEARING; AMENDING SECTION 16-1610, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE, TO SET FORTH PROVISIONS FOR CASE PLAN HEARINGS, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1611, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1623, IDAHO CODE, TO PROVIDE FOR AMENDED DISPOSITIONS AND REMOVAL DURING PROTECTIVE SUPERVISION; AMENDING SECTION 16-1615, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO REVISE PROVISIONS APPLICABLE TO THE TERMINATION OF A PARENT-CHILD RELATIONSHIP; AMENDING SECTION 16-1617, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS APPLICABLE TO APPEALS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1621, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1616, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1622, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1623, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1624, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1625, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1630, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1631, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1632, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1633, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1634, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1635, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1636, IDAHO CODE, TO REDESIGNATE THE

SECTION, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1637, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1626, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1627, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1628, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-1629, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 16-2001, IDAHO CODE, TO REVISE THE PURPOSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2002, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2003, IDAHO CODE, TO PROVIDE FOR EXCLUSIVE JURISDICTION UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 16-2005, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2007, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO NOTICES AND WAIVERS, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2010, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING PROTECTIVE SUPERVISION OF A CHILD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-609A, IDAHO CODE, TO REVISE CODE REFERENCES; AMENDING SECTION 39-258, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-259, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-270, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 39-8105, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 357, LAWS OF 2001, TO REDESIGNATE THE SECTION AND TO REVISE CODE REFERENCES; AMENDING SECTION 39-8106, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 357, LAWS OF 2001, TO REDESIGNATE THE SECTION AND TO REVISE A CODE REFERENCE; AMENDING SECTION 54-4407, IDAHO CODE, TO REVISE CODE REFERENCES; AMENDING SECTION 66-317, IDAHO CODE, TO REVISE A CODE REFERENCE; AND AMENDING SECTION 66-324, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 6-210, Idaho Code, be, and the same is hereby amended to read as follows:

6-210. RECOVERY OF DAMAGES FOR ECONOMIC LOSS ~~WILFULLY~~ WILLFULLY CAUSED BY A MINOR. (1) Any person shall be entitled to recover damages in an amount not to exceed two thousand five hundred dollars ($2,500) in a court of competent jurisdiction from the parents of any minor, under the age of eighteen (18) years, living with the parents, who shall ~~wilfully~~ willfully cause economic loss to such person, except as otherwise provided in section 49-310, Idaho Code. "Person" means any municipal corporation, county, city school district, or any individual, partnership, corporation or association, or any religious organization, whether incorporated or unincorporated.

(2) Economic loss shall include, but not be limited to, the value of property, as that term is defined in section 18-2402(8), Idaho Code, taken, destroyed, broken or otherwise harmed, lost wages and direct out-of-pocket losses or expenses such as medical expenses resulting from the minor's ~~wilful~~ willful conduct, but shall not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(3) As used in this section, "parents" shall mean any persons or

entities who have legal custody of the minor, or any persons or entities who are licensed to accept children for child care under chapter 12, title 39, Idaho Code. "Legal custody" shall be as that term is defined in section 16-2002~~(f)~~, Idaho Code.

(4) In the event the parents are providing foster care for the minor at the time of the minor's ~~wilful~~ willful act, and the parents are licensed pursuant to section 39-1211, Idaho Code, and the minor is in the legal custody of the department of health and welfare, any person is entitled to recover damages in a court of competent jurisdiction within the above stated limits. Such recovery shall be insured by the state of Idaho.

SECTION 2. That Section 6-1903, Idaho Code, be, and the same is hereby amended to read as follows:

6-1903. DISCHARGE OF A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN. (1) The duty to warn arises only under the limited circumstances specified in section 6-1902, Idaho Code. The duty to warn a clearly identifiable victim shall be discharged when the mental health professional has made a reasonable effort to communicate, in a reasonable timely manner, the threat to the victim and has notified the law enforcement agency closest to the patient's or victim's residence of the threat of violence, and has supplied a requesting law enforcement agency with any information he has concerning the threat of violence. If the victim is a minor, in addition to notifying the appropriate law enforcement agency as required in this subsection, the mental health professional shall make a reasonable effort to communicate the threat to the victim's custodial parent, noncustodial parent, or legal guardian.

(2) The provisions of this section do not limit or affect the mental health professional's duty to report child abuse or neglect in accordance with section 16-16~~1~~905, Idaho Code.

SECTION 3. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. ~~Said~~ The petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside. If the adoption arises from a child protective act case, the petition shall be filed in the court having jurisdiction over the child protective act case unless that court relinquishes jurisdiction over the adoption proceeding. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which the person to be adopted shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of the petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed.

The p~~P~~etitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

(2) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of ~~subsection e. of~~ section 16-2005(4), Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(3) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. The social investigation may be performed by any individual who meets the requirements of the law. A copy of the study must be submitted to the department and the department may impose a reasonable fee, not to exceed fifty dollars ($50.00), for oversight of such privately conducted studies. If the prospective adoptive parent has a disability as defined in this chapter, the prospective adoptive 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 prospective adoptive parent of such right and shall consider all such information in any findings or recommendations. The social investigation of any prospective adoptive parent with a disability shall be conducted by, or with the assistance of, an individual with expertise in the use of such equipment and services. Nothing in this chapter shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities. ~~A copy of the study must be submitted to the department and the department may impose a reasonable fee, not to exceed fifty dollars ($50.00), for oversight of such privately conducted studies.~~ In those instances where the prospective adoptive parent is married to the birth parent or is the grandparent of the child to be adopted, such social investigation shall be completed with regard to the prospective adoptive parent only upon order of the court. In exigent circumstances where the prospective adoptive parents are determined by the court to have been unable to complete a social investigation of the family with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines the best interests of the child are served by other placement. If exigent circumstances exist, a social investigation shall be initiated within five (5) days of placement. Once initiated, all studies shall be completed within sixty (60) days. Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition,

together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. If no private investigation is conducted, it shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing children's adoption agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources of such information as well as reasonably known or available providers of medical care and services to the natural parents. A copy of all medical and genetic information compiled in the investigation shall be made available to the adopting family by the department or other investigating children's adoption agency prior to entry of the final order of adoption. The petition, statement and all other papers, records or files relating to the adoption, including the preplacement investigation and recommendation, shall be returned to the court with the investigative report. The department of health and welfare or other children's adoption agency may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

(4) Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with. Nothing in either chapter shall be construed as limiting the initiation of any petition for approval of a verified financial plan for adoption expenses pursuant to section 18-1511, Idaho Code, prior to the birth of the child which is the subject of any adoption proceeding. In all disputed matters under this chapter or chapter 20, title 16, Idaho Code, the paramount criterion for consideration and determination by the court shall be the best interests of the child.

(5) Proceedings for the adoption of an adult shall be as provided in subsection (1) of this section and any consents required shall be executed as provided in subsection (2) of this section. Upon a finding by the court that the consent of all persons for whom consent is required has been given and that the requirements of section 16-1501, Idaho Code, have been proven to the satisfaction of the court, the court shall enter an order granting the adoption. In cases where the adult proposed to be adopted is incapacitated or disabled, the court may require that an investigation be performed. The form and extent of the investigation to be undertaken may be as provided in subsection (3) of this section, or as otherwise ordered by the court. If an investigation is performed, the court must review and approve the findings of the investigation before issuing an order approving the adoption.

SECTION 4. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE OF COMMENCEMENT 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 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 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 8~~1~~2, 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 8~~1~~2, title 39, Idaho Code, as provided by section 39-~~01~~068206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department 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 8~~1~~2, 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 8~~1~~2, 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 8~~1~~2, 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 of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 8~~1~~2, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 8~~1~~2, 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 8~~1~~2, 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 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 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 of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first. The notice of the commencement 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 registry for this purpose which 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 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) Any 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 prior to the date of commencement 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 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. The filing and registration of a 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.

(5) 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.

(6) Identities of putative fathers can only be released pursuant to procedures contained in chapter 3, title 9, Idaho Code.

(7) To cover the cost of implementing and maintaining said 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. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section. The board of health and welfare shall annually review the fees and expenses incurred pursuant to administering the provisions of this section.

(8) 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.

SECTION 5. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(1) "Abused" means any case in which a child has been the victim of:

(a) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(b) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(2) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child including, but not limited to, reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(4) "Adjudicatory hearing" means a hearing to determine:

(a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency;

(c) Whether aggravated circumstances as defined in section 16-1608~~19~~, Idaho Code, exist.

(5) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association

licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(6) "Case plan hearing" means a hearing to:

(a) Review, approve, modify or reject the case plan; and

(b) Review reasonable efforts being made to rehabilitate the family; and

(c) Review reasonable efforts being made to reunify the children with a parent or guardian.

(7) "Child" means an individual who is under the age of eighteen (18) years.

(~~7~~8) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-16~~30~~32, Idaho Code.

(~~8~~9) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(~~9~~10) "Commit" means to transfer legal and physical custody.

(~~10~~11) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(~~11~~12) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(~~12~~13) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order. ~~or who is acting in loco parentis.~~

(~~13~~14) "Department" means the department of health and welfare and its authorized representatives.

(~~14~~15) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activity of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(~~15~~16) "Family or household member" shall have the same meaning as in section 39-6303(~~3~~6), Idaho Code.

(~~16~~17) "Foster care" means twenty-four (24) hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility.

(~~17~~18) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(~~18~~19) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(~~19~~20) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(~~20~~21) "Homeless," as used in this chapter, shall mean that the child

is without adequate shelter or other living facilities, and the lack of such shelter or other living facilities poses a threat to the health, safety or well-being of the child.

(2~~1~~2) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(2~~2~~3) "Legal custody" means a relationship created by court order, ~~of the court,~~ which vests in a custodian the following ~~duties and~~ rights and responsibilities:

(a) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(b) To supply the child with food, clothing, shelter and incidental necessities.

(c) To provide the child with care, education and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(e) Where the parents share legal custody, the custodian may be vested with the custody previously held by either or both parents.

(2~~3~~4) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(2~~4~~5) "Neglected" means a child:

(a) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-16~~1~~627, Idaho Code; or

(b) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child and, as a result of such inability, the child lacks the parental care necessary for his health, safety or well-being; or

(c) Who has been placed for care or adoption in violation of law.

(2~~5~~6) "Permanency hearing" means a hearing to review, approve, reject or modify the permanency plan of the department, and review reasonable efforts in accomplishing the permanency plan.

(2~~6~~7) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

~~(27) "Planning hearing" means a hearing to:~~

~~(a) Review, approve, modify or reject the case plan; and~~

~~(b) Review reasonable efforts being made to rehabilitate the family; and~~

~~(c) Review reasonable efforts being made to reunify the children with a parent or guardian.~~

(28) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a

period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(29) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(30) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(31) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(32) "Supportive services," as used in this chapter, shall mean services which assist parents with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations or assistance with effectively using adaptive equipment and accommodations which allow parents with a disability to benefit from other services including, but not limited to, Braille texts or sign language interpreters.

SECTION 6. That Section 16-1603, Idaho Code, be, and the same is hereby amended to read as follows:

16-1603. JURISDICTION OF THE COURTS. (1) Except as otherwise provided herein, the court shall have exclusive original jurisdiction in all proceedings under this chapter concerning any child living or found within the state:

(a) Who is neglected, abused or abandoned by his parents, guardian or other legal custodian, or who is homeless; or

(b) Whose parents or other legal custodian fails to provide a stable home environment.

(2) If the court has taken jurisdiction over a child under subsection (1) of this section, it may take jurisdiction over another child living or having custodial visitation in the same household without the filing of a separate petition if it finds all of the following:

(a) The other child is living or is found within the state;

(b) The other child has been exposed to or is at risk of being a victim of abuse, neglect or abandonment;

(c) The other child is listed in the petition or amended petition;

(d) The parents or legal guardians of the other child have notice as provided in section 16-16~~06~~11, Idaho Code.

SECTION 7. That Section 16-1619, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~19~~05. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (~~a~~1) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in

abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.

(~~b~~2) For purposes of subsection (~~c~~3) of this section the term "duly ordained minister of religion" means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.

(~~c~~3) The notification requirements of subsection (~~a~~1) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:

(~~1~~a) The church qualifies as tax-exempt under 26 U.S.C. section 501(c)(3);

(~~2~~b) The confession or confidential communication was made directly to the duly ordained minister of religion; and

(~~3~~c) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

(~~d~~4) Failure to report as required in this section shall be a misdemeanor.

SECTION 8. That Section 16-1620, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~20~~06. IMMUNITY. Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in section 16-16~~19~~05, Idaho Code, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof.

SECTION 9. That Section 16-1620A, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~20A~~07. REPORTING IN BAD FAITH -- CIVIL DAMAGES. Any person who makes a report or allegation of child abuse, abandonment or neglect knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against whom the report was made for the amount of actual damages sustained or statutory damages of five hundred dollars ($500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

SECTION 10. That Section 16-1612, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~12~~08. EMERGENCY REMOVAL.

(~~a~~1) (~~1~~a) A child may be taken into shelter care by a peace officer ~~or--other-person-appointed-by-the-court~~ without an order issued pursuant to subsection (~~d~~4) of section 16-16~~06~~11 or section 16-16~~08~~19, Idaho Code, only where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child or where the child is an abandoned child pursuant to the provisions of chapter 8~~1~~2, title 39, Idaho Code.

(~~2~~b) An alleged offender may be removed from the home of the victim of abuse or neglect by a peace officer ~~or-other-person-appointed--by the--court~~ without an order, issued pursuant to subsection (~~e~~5) of section 16-16~~06~~11, Idaho Code, only where the child is endangered and prompt removal of an alleged offender is necessary to prevent serious physical or mental injury to the child.

(~~b~~2) When a child is taken into shelter care under subsection (~~a~~1) of this section, he may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, unless a shelter care hearing has been held pursuant to section 16-16~~14~~15, Idaho Code, and the court orders an adjudicatory hearing.

(~~c~~3) When an alleged offender is removed from the home under subsection (~~a~~1)(~~2~~b) of this section, a motion based on a sworn affidavit by the department must be filed simultaneously with the petition and the court shall determine at a shelter care hearing, held within a maximum of twenty-four (24) hours, excluding Saturdays, Sundays and holidays, whether the relief sought shall be granted, pending an adjudicatory hearing. Notice of such hearing shall be served upon the alleged offender at the time of removal or other protective relief.

SECTION 11. That Section 16-1613, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~13~~09. EMERGENCY REMOVAL -- NOTICE. (~~a~~1) A peace officer ~~or other-person-appointed-by-the-court~~ who takes a child into shelter care under section 16-16~~12~~08, Idaho Code, shall immediately:

(~~1~~a) Take the child to a place of shelter~~,~~; and

(~~2~~b) Notify the court of the action taken and the place to which the child was taken~~,~~; and~~,~~

(~~3~~c) ~~w~~With the exception of a child abandoned pursuant to the pro-

visions of chapter 8~~1~~2, title 39, Idaho Code, ~~N~~notify each of the parents, guardian or other legal custodian that the child has been taken into shelter care, the type and nature of shelter care, and that the child may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, within which time there must be a shelter care hearing.

(~~b~~2) A peace officer ~~or other person appointed by the court~~ who takes a child into shelter care under section 16-16~~1~~2~~0~~8, Idaho Code, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith and/or the requirements of subsection (~~a~~1) of this section are not complied with.

SECTION 12. That Section 16-1605, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~0~~5~~1~~0. PETITION. (~~a~~1) A petition invoking the jurisdiction of the court under this chapter shall be filed in the manner provided in this section:

(~~1~~a) A petition must be signed by the prosecutor or deputy attorney general before being filed with the court.

(~~2~~b) Any person or governmental body of this state having evidence of abuse, abandonment, neglect or homelessness of a child may request the attorney general or prosecuting attorney to file a petition. The prosecuting attorney ~~of the county where the child resides~~ or the attorney general may file a petition on behalf of any child whose parent, guardian, or custodian has been accused in a criminal complaint of the crime of cruel treatment or neglect as defined in section 18-1501, Idaho Code.

(~~b~~2) Petitions shall be entitled "In the Matter of ....., a child under the age of eighteen (18) years" and shall be verified and set forth with specificity:

(~~1~~a) The facts which bring the child within the jurisdiction of the court upon the grounds set forth in section 16-1603, Idaho Code, with the actions of each parent described therein;

(~~2~~b) The name, birthdate, sex, and residence address of the child;

(~~3~~c) The name, birthdate, sex, and residence address of all other children living at or having custodial visitation at the home where the injury to the subject child occurred;

(~~4~~d) The names and residence addresses of both the mother and father, guardian or other custodian. If neither of his parents, guardian or other custodian resides or can be found within the state, or if their residence addresses are unknown, the name of any known adult relative residing within the state;

(~~5~~e) The names and residence addresses of each person having sole or joint legal custody of the children described in this section;

(~~6~~f) Whether or not there exists a legal document including, but not limited to, a divorce decree, stipulation or parenting agreement controlling the custodial status of the children described in this section;

(~~7~~g) Whether the child is in shelter care, and, if so, the type and nature of the shelter care, the circumstances necessitating such care and the date and time he was placed in such care;

(~~8~~h) When any of the facts required by this section cannot be determined, the petition shall so state. The petition may be based

on information and belief but in such case the petition shall state the basis of such information and belief;

(~~9~~i) If the child has been or will be removed from the home, the petition shall state that:

(i) Remaining in the home was contrary to the welfare of the child; and

(ii) Vesting legal custody of the child in the department or other authorized agency is in the best interests of the child; and

(iii) Reasonable efforts have been made prior to the placement of the child in care to prevent the removal of the child from his home or, if such efforts were not provided, that reasonable efforts to prevent placement were not required as the parent subjected the child to aggravated circumstances;

(~~10~~j) The petition shall state with specificity whether a parent with joint legal custody or a noncustodial parent has been notified of placement;

(~~11~~k) The petition shall state whether a court has adjudicated the custodial rights of the parents and shall set forth the custodial status of the child;

(~~12~~l) The court may combine petitions and hearings where multiple petitions have been filed involving related children, parents or guardians.

SECTION 13. That Section 16-1606, Idaho Code, be, and the same is hereby amended to read as follows:

16-160~~6~~11. SUMMONS. (~~a~~1) After a petition has been filed, the clerk of the court may issue a summons requiring the person or persons who have custody of the child to bring the child before the court at the adjudicatory hearing held in accordance with section 16-160~~8~~19, Idaho Code. Each parent or guardian shall also be notified in the manner hereinafter provided of the pendency of the case and the time and place set for the hearing. A summons shall be issued and served requiring the appearance of each parent and legal guardian, and a summons may be issued and served for any other person whose presence is required by the child, either of his parents or guardian or any other person whose presence, in the opinion of the court, is necessary.

(~~b~~2) A copy of the petition shall be attached to each summons.

(~~c~~3) The summons shall notify each of the parents, guardian or legal custodian of their right to retain and be represented by counsel. Each parent or legal guardian of each child named in the petition shall be notified by the court of the case and of the time and place set for the hearing.

(~~d~~4) If based on facts presented to the court, it appears that the court has jurisdiction upon the grounds set forth in section 16-1603, Idaho Code, and that the child should be removed from his present condition or surroundings because continuation in such condition or surroundings would be contrary to the welfare of the child and vesting legal custody with the department or other authorized agency would be in the child's best interests, the court may so order by endorsement upon the summons. The endorsement shall specifically state that continuation in the present condition or surroundings is contrary to the welfare of the child and shall require a peace officer or other suitable person to take

the child at once to a place of shelter care designated by the authorized agency which shall provide shelter care for the child.

(~~e~~5) If it appears that the child is safe in his present condition or surroundings and it is not in his best interest to remove him at this time, the court may issue a protective order based on an affidavit pending the adjudicatory hearing. If the child is in joint custody, the protective order shall state with specificity the rights and responsibilities of each parent. Each parent shall be provided with a copy of the protective order.

SECTION 14. That Section 16-1607, Idaho Code, be, and the same is hereby amended to read as follows:

16-160~~7~~12. SERVICE OF SUMMONS -- TRAVEL EXPENSES -- NECESSARY WITNESSES. (~~a~~1) Service of summons shall be made personally by delivery of an attested copy thereof to the person summoned; provided that if the court is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the hearing.

(~~b~~2) When publication is used the summons shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the county; such newspaper to be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with said summons.

(~~c~~3) Service of summons, process or notice required by this chapter shall be made by the sheriff or other person appointed by the court, and a return must be made on the summons showing that service has been made.

(~~d~~4) The court may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this chapter, and such expenses when approved by the court shall be a charge upon the county, except that not more than five (5) witnesses on behalf of any parent or guardian may be required to attend such hearing at the expense of the county.

(~~e~~5) The court may summon the appearance of any person whose presence is deemed necessary as a witness.

(~~f~~6) The child, each of his parents, guardian or custodian shall be notified as soon as practicable after the filing of a petition and prior to the start of a hearing of their right to be represented by counsel.

(~~g~~7) If any person summoned as herein provided shall, without reasonable cause, fail to appear, the court may proceed in such person's absence or such person may be proceeded against for contempt of court.

(~~h~~8) Where the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the court that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith into the custody of the court, a warrant or capias may be issued for the parent, guardian or the child.

SECTION 15. That Section 16-1607A, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~07A~~13. HEARINGS UNDER THE CHILD PROTECTIVE ACT. (1) Proceedings under this chapter shall be dealt with by the court at hearings separate from those for adults and without a jury. The hearings shall be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case. The child may be excluded from hearings at any time at the discretion of the court. If the parent or guardian is without counsel, the court shall inform them of their right to be represented by counsel and to appeal from any disposition or order of the court.

(2) When a child is summoned as a witness in any hearing under this act, notwithstanding any other statutory provision, parents, a counselor, a friend, or other person having a supportive relationship with the child shall, if available, be permitted to remain in the courtroom at the witness stand with the child during the child's testimony unless, in written findings made and entered, the court finds that the constitutional right of the child's parent(s), guardian(s) or other custodian(s) to a fair hearing will be unduly prejudiced.

(3) At any stage of a proceeding under this chapter, if the court determines that it is in the best interests of the child or society, the court may cause the proceeding to be expanded or altered to include full or partial consideration of the cause under the juvenile corrections act without terminating the original proceeding under this chapter.

SECTION 16. That Section 16-1618, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~18~~14. RIGHT TO COUNSEL -- GUARDIAN AD LITEM. (~~a~~1) In any proceeding under this chapter 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 counsel for the child.

(~~b~~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.

(~~c~~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.

SECTION 17. That Section 16-1614, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~14~~15. SHELTER CARE HEARING. (~~a~~1) Notwithstanding any other provision of this chapter, when a child is taken into shelter care pursuant to section 16-16~~12~~08 or 16-1611, Idaho Code, a hearing to determine whether the child should be released shall be held according to the provisions of this section.

(~~b~~2) Each of the parents or custodian from whom the child was removed shall be given notice of the shelter care hearing. Such notice shall include the time, place, and purpose of the hearing; and, that such person is entitled to be represented by legal counsel. Notice as required by this subsection shall be given at least twenty-four (24) hours before the shelter care hearing.

(~~c~~3) Notice of the shelter care hearing shall be given to the parents or custodian from whom the child was removed by personal service and the return of service shall be filed with the court and to any person having joint legal or physical custody of the subject child. Provided, however, that such service need not be made where the undelivered notice is returned to the court along with an affidavit stating that such parents or custodian could not be located or were out of the state.

(~~d~~4) The shelter care hearing may be continued for a reasonable time upon request by the parent, custodian or counsel for the child.

(~~e~~5) If, upon the completion of the shelter care hearing, it is shown that:

(~~1~~a) A petition has been filed; and

(~~2~~b) There is reasonable cause to believe the child comes within the jurisdiction of the court under this chapter and that reasonable efforts to prevent the placement of the child in shelter care could not be provided because of the immediate danger to the child or were provided but were not successful in eliminating the need for foster care placement of the child; and

(~~3~~c) The child could not be placed in the temporary sole custody of a parent having joint legal or physical custody; and

(~~4~~d) It is contrary to the welfare of the child to remain in the home; and

(~~5~~e) It is in the best interests of the child to remain in temporary shelter care pending the conclusion of the adjudicatory hearing; or

(~~6~~f) There is reasonable cause to believe that the child comes within the jurisdiction of the court under this chapter, but a reasonable effort to prevent placement of the child outside the home could be affected by a protective order safeguarding the child's welfare and maintaining the child in his present surroundings; the court shall issue, within twenty-four (24) hours of such hearing, an order of temporary legal custody and/or a protective order. Any evidence may be considered by the court which is of the type which reasonable people may rely upon.

(~~f~~6) Upon ordering shelter care pursuant to subsection (~~e~~5) of this section, the court shall also order an adjudicatory hearing to be held as soon as possible, but in no event later than thirty (30) days from the date the petition was filed.

(~~g~~7) If the court does not find that the child should remain in shelter care under subsection (~~e~~5) of this section, the child shall be released and the court may dismiss the petition.

SECTION 18. That Section 16-1609, Idaho Code, be, and the same is hereby amended to read as follows:

16-160~~9~~16. INVESTIGATION. (~~a~~1) ~~Where--the--court--has--ordered--an adjudicatory--hearing--after-the-shelter-care-hearing-or-when-a-petition is-otherwise-filed,-the-court-may-order~~ After a petition has been filed,

the department ~~to~~ shall investigate the circumstances of the child and his family and prepare a written report to the court.

(~~b~~2) The report shall be delivered to the court with copies to each of the ~~parents--or-other-legal-custodian~~ parties prior to the pretrial conference for the adjudicatory hearing. If delivered by mail the report must be received by the court and the parties prior to the pretrial conference for the adjudicatory hearing. The report shall contain a social evaluation of the child and the parents or other legal custodian and such other information as the court shall require.

(~~c~~3) The report shall not be considered by the court for purposes of determining whether the child comes within the jurisdiction of the act. The report may be admitted into evidence at the adjudicatory hearing for other purposes.

~~(d)--If--the--court--declines-to-order-the-department-to-investigate pursuant-to-subsection-(a)-of-this-section,-the-court--shall--state--the reasons-for-so-declining-in-the-record.~~

SECTION 19. That Section 16-1609A, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~09A~~17. INVESTIGATION BY MULTIDISCIPLINARY TEAMS. (1) By January 1, 1997, the prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to his special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs, persons knowledgeable about adaptive equipment and supportive services for parents or guardians with disabilities or the guardian ad litem program.

(2) The teams shall develop a written protocol for investigation of child abuse cases and for interviewing alleged victims of such abuse or neglect, including protocols for investigations involving a family member with a disability. Each team shall develop written agreements signed by member agencies, specifying the role of each agency, procedures to be followed to assess risks to the child and criteria and procedures to be followed to ensure the child victim's safety including removal of the alleged offender.

(3) Each team member shall be trained in risk assessment, dynamics of child abuse and interviewing and investigatory techniques.

(4) Each team shall classify, assess and review a representative selection of cases referred to either the department or to law enforcement entities for investigation of child abuse or neglect.

(5) Each multidisciplinary team shall develop policies that provide for an independent review of investigation procedures utilized in cases upon completion of any court actions on those cases. The procedures shall include independent citizen input. Nonoffending parents of child abuse victims shall be notified of the review procedure.

(6) Prosecuting attorneys of the various counties may determine that multidisciplinary teams may be most effectively established through

the use of joint exercise of powers agreements among more than one (1) county and such agreements are hereby authorized.

(7) Lack of review by a multidisciplinary team of a particular case does not defeat the jurisdiction of the court.

SECTION 20. That Section 16-1609B, Idaho Code, be, and the same is hereby amended to read as follows:

16-1~~609B~~18. INVESTIGATIVE INTERVIEWS OF ALLEGED CHILD ABUSE VICTIMS. Unless otherwise demonstrated by good cause, all investigative or risk assessment interviews of alleged victims of child abuse will be documented by audio or video taping whether conducted by personnel of law enforcement entities or the department of health and welfare. The absence of such audio or video taping shall not limit the admissibility of such evidence in any related court proceeding.

SECTION 21. That Section 16-1608, Idaho Code, be, and the same is hereby amended to read as follows:

16-1~~608~~19. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDATION. (~~a~~1) When a petition has been filed, the court shall set an adjudicatory hearing to be held no later than thirty (30) days after the filing of the petition.

(~~b~~2) A pretrial conference shall be held outside the presence of the court within three (3) to five (5) days before the adjudicatory hearing. Investigative reports required under section 16-1~~609~~16, Idaho Code, shall be delivered to the court with copies to each of the parents and other legal custodians, guardian ad litem and attorney for the child prior to the date set for the pretrial conference.

(~~c~~3) At the adjudicatory hearing, parents or guardians with disabilities shall have the right to introduce admissible evidence regarding how use of adaptive equipment or supportive services may enable the parent or guardian to carry out the responsibilities of parenting the child by addressing the reason for the removal of the child.

(~~d~~4) If a preponderance of the evidence at the adjudicatory hearing shows that the child comes within the court's jurisdiction under this chapter upon the grounds set forth in section 16-1603, Idaho Code, the court shall so decree and in its decree shall make a finding on the record of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(~~e~~5) Upon entering its decree the court shall consider any information relevant to the disposition of the child but in any event shall:

(~~1~~a) Place the child under protective supervision in his own home for an indeterminate period not to exceed the child's eighteenth birthday; or

(~~2~~b) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency.

(~~f~~6) If the court vests legal custody in the department or other authorized agency, the court shall make detailed written findings based on facts in the record, that, in addition to the findings required in subsection (~~d~~4) of this section, continuation of residence in the home would be contrary to the welfare of the child and that vesting legal

custody with the department or other authorized agency would be in the best interests of the child. In addition the court shall make detailed written findings based on facts in the record as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

(~~1~~a) Reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child;

(~~2~~b) Reasonable efforts were not made because of immediate danger to the child;

(~~3~~c) Reasonable efforts to temporarily place the child with related persons were made but were not successful; or

(~~4~~d) Reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter of another child; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a ~~felony assault~~ battery that results in serious bodily injury to ~~any~~ a child; ~~of the parent;~~ or the parental rights of the parent to a sibling of the child have been terminated involuntarily and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination.

(~~g~~7) A decree vesting legal custody in the department shall be binding upon the department and may continue until the child's eighteenth birthday. The decree shall state that the department shall prepare a written case plan within thirty (30) days of placement.

(~~h~~8) A decree vesting legal custody in an authorized agency other than the department shall be for a period of time not to exceed the child's eighteenth birthday, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(~~i~~9) In order to preserve the unity of the family system and to ensure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of continuing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(~~j~~10) If the court does not find that the child comes within the jurisdiction of this chapter pursuant to subsection (~~d~~4) of this section it shall dismiss the petition.

SECTION 22. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1620, Idaho Code, and to read as follows:

16-1620. PERMANENCY PLAN -- HEARING. (1) After a judicial determination that reasonable efforts to return the child to his home are not required because the parent has subjected the child to aggravated circumstances as set forth in section 16-1619(6)(d), Idaho Code, the department shall prepare a permanency plan. The plan shall set forth

reasonable efforts to place the child for adoption, with a legal guardian, or in another approved permanent placement.

(2) Notice of the permanency hearing shall be provided to the parents, legal guardians, guardians ad litem and foster parents, provided however, that foster parents are not thereby made parties to the child protective act action.

(3) When it is in the child's best interests, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained throughout the transition. The plan shall state with specificity the role of the department toward each parent.

SECTION 23. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~10~~21. ~~PLANNING~~ CASE PLAN HEARING. (~~a~~1) The department shall prepare a written case plan in every case in which the child is determined to be within the jurisdiction of the court, including cases in which the parent(s) is incarcerated. The case plan shall be filed with the court no later than sixty (60) days from the date the child was removed from the home or thirty (30) days after the adjudicatory hearing, whichever occurs first. Copies of the case plan shall be delivered to the parents and other legal guardians, the guardian ad litem and attorney for the child. Within five (5) days of filing the plan, the court shall hold a planning hearing to determine whether to adopt, reject or modify the case plan proposed by the department.

(~~b~~2) Notice of the ~~planning~~ case plan hearing shall be provided to the parents, legal guardians, guardians ad litem and foster parents. Although foster parents are provided notice of this hearing, they are not parties to the child protective act action.

(~~c~~3) The case plan shall set forth reasonable efforts which will be made to make it possible for the child to return to his home and shall concurrently include a plan setting forth reasonable efforts to place the child for adoption, with a legal guardian, or in another approved permanent placement. Whenever possible, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained through the transition. The plan shall state with specificity the role of the department toward each parent. ~~and shall be for an indeterminate period not to exceed the child's eighteenth birthday.~~

(~~d~~4) The case plan, as approved by the court, shall be entered into the record as an order of the court. In the absence of a finding of aggravated circumstances as provided for in section ~~16-1608(f)(4)~~16-1619(6)(d), Idaho Code, the court's order shall provide that reasonable efforts shall be made to reunify the family in a timely manner in accordance with the case plan or in the alternative to complete the steps necessary to finalize the permanent placement of the child.

SECTION 24. That Section 16-1611, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~11~~22. REVIEW AND PERMANENCY HEARINGS. (~~a~~1) A motion for revocation or modification of an order issued under section 16-160~~8~~19, Idaho

Code, may be filed by the department or any party; provided that no motion may be filed by the respondents under this section within three (3) months of a prior hearing on care and placement of the child. All persons required to be summoned or notified of the original petition pursuant to section 16-160~~6~~11, Idaho Code, shall be served with notice of a motion for review of a child's case.

(~~b~~2) If the motion filed under subsection (~~a~~1) of this section alleges that the child's best interests are no longer served by carrying out the order issued under section 16-160~~8~~19, Idaho Code, or the department or other authorized agency has failed to provide adequate care for the child, the court shall hold a hearing on the motion.

(~~c~~3) A hearing for review of the child's case and permanency plan shall be held no later than six (6) months after entry of the court's order taking jurisdiction under the act, and every six (6) months thereafter, so long as the child is in the custody of the department or authorized agency.

(~~d~~4) A hearing shall be held to review the permanency plan of the department prior to twelve (12) months from the date the child is removed from the home or the date of the court's order taking jurisdiction under this chapter, whichever occurs first. The court shall review, approve, reject or modify the permanency plan of the department and review progress in accomplishing the permanency plan. This permanency hearing may be combined with the review hearing required under subsection (~~c~~3) of this section.

(~~e~~5) By order of the court a hearing officer may be appointed to conduct hearings under this section.

(~~f~~6) The department or authorized agency may move the court at any time to vacate any order placing a child in its custody or under its protective supervision.

(~~g~~7) The department or any party may move the court requesting relief from the duty imposed on the department pursuant to the provisions of section ~~16-1623(i)~~ 16-1629(9), Idaho Code, that it seek termination of parental rights. The court may grant the department's motion if it appears based on compelling reasons in the record that the presumption has been rebutted.

SECTION 25. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1623, Idaho Code, and to read as follows:

16-1623. AMENDED DISPOSITION -- REMOVAL DURING PROTECTIVE SUPERVISION. (1) Where the child has been placed under the protective supervision of the department pursuant to section 16-1619, Idaho Code, the child may be removed from his or her home under the following circumstances:

(a) A peace officer may remove the child where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child; or

(b) The court has ordered, based upon facts presented to the court, that the child should be removed from his or her present conditions or surroundings because continuation in such conditions or surroundings would be contrary to the welfare of the child and vesting legal custody in the department or other authorized agency would be in the child's best interests.

(2) Upon removal, the child shall be taken to a place of shelter care.

(3) When a child under protective supervision is removed from his home, a hearing shall be held within forty-eight (48) hours of the child's removal from the home. At the hearing, the court shall determine whether to vest legal custody in the department or other authorized agency pursuant to section 16-1619(5)(b), Idaho Code.

(4) In determining whether to vest legal custody in the department or other authorized agency, the court shall consider any information relevant to the redisposition of the child, and in any event shall make detailed written findings based upon facts in the record as required by section 16-1619(6), Idaho Code.

(5) An order vesting legal custody with the department or other authorized agency under this section shall be treated for all purposes as if such an order had been part of the court's original decree under section 16-1619, Idaho Code. The department shall prepare a written case plan and the court shall hold a case plan hearing within thirty (30) days pursuant to section 16-1621, Idaho Code.

(6) Each of the parents or legal guardians from whom the child was removed shall be given notice of the redisposition hearing in the same time and manner as required for notice of a shelter care hearing under section 16-1615(2) and (3), Idaho Code.

(7) The redisposition hearing may be continued for a reasonable time upon the request of the parties.

SECTION 26. That Section 16-1615, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~15~~24. TERMINATION OF PARENT-CHILD RELATIONSHIP. If the child has been placed in the legal custody of the department or under its protective supervision pursuant to section 16-160~~8~~19, Idaho Code, the department may petition the court for termination of the parent and child relationship in accordance with chapter 20, title 16, Idaho Code. Unless there are compelling reasons it would not be in the best interest of the child, the department shall be required to file a petition to terminate parental rights within sixty (60) days of a judicial determination that an infant has been abandoned or that reasonable efforts~~,--as defined--in~~ are not required because the parent has subjected the child to aggravated circumstances as determined by the court pursuant to section ~~16-1608(f)~~ 16-1619(6)(d), Idaho Code~~,-are-not-required-because-the court-determines-the-parent-has-been-convicted-of--murder--or--voluntary manslaughter--of--another--sibling--of--the-child-or-has-aided,-abetted, attempted,-conspired-or-solicited-to-commit--such--murder--or--voluntary manslaughter--and/or--if--the--court-determines-the-parent-has-been-convicted-of-a-felony-assault-or-battery-which-resulted-in--serious--bodily injury--to--the-child-or-a-sibling~~. The department shall join as a party to the petition if such a petition to terminate is filed by another party; as well as to concurrently identify, recruit, process and approve a qualified family for adoption unless it is determined that such actions would not be in the best interest of the child, or the child is placed with a relative. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within twelve (12) months

of the order of termination of parental rights, and every twelve (12) months subsequently until the child is adopted or is in a placement sanctioned by the court. A petition to terminate parental rights shall be filed ~~as a motion~~ in the ~~existing~~ child protective ~~action~~ act case.

SECTION 27. That Section 16-1617, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~17~~25. APPEAL -- EFFECT ON CUSTODY. (1) An ~~interested~~ aggrieved party ~~aggrieved by any order or decree of the court~~ may appeal the following orders or decrees of the court to the district court within thirty (30) days of the filing of such order or decree:

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

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

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

(d) An order of dismissal.

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

SECTION 28. That Section 16-1621, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~1~~6. COURT RECORDS. The court shall keep a record of all court proceedings under this chapter. The records shall be available only to parties to the proceeding, persons having full or partial custody of the subject child and authorized agencies providing protective supervision or having legal custody of the child. Any other person may have access to the records only upon permission by the court and then only if it is shown that such access is in the best interests of the child; or for the purpose of legitimate research. If the records are released for research purposes, the person receiving them must agree not to disclose any information which could lead to the identification of the child.

SECTION 29. That Section 16-1616, Idaho Code, be, and the same is hereby amended to read as follows:

16-16~~16~~27. AUTHORIZATION OF EMERGENCY MEDICAL TREATMENT. (~~a~~1) At any time whether or not a child is under the authority of the court, the court may authorize medical or surgical care for a child when:

(~~1~~a) A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or

(~~2~~b) A physician informs the court orally or in writing that in his professional opinion, the life of the child would be greatly endangered without certain treatment and the parent, guardian or other custodian refuses or fails to consent.

(~~b~~2) If time allows in a situation under subsection (~~a~~1)(~~2~~b) of this section, the court shall cause every effort to be made to grant each of the parents or legal guardian or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life.

(~~c~~3) In making its order under subsection (~~a~~1) of this section, the court shall take into consideration any treatment being given the child by prayer through spiritual means alone, if the child or his parent, guardian or legal custodian are adherents of a bona fide religious denomination that relies exclusively on this form of treatment in lieu of medical treatment.

(~~d~~4) After entering any authorization under subsection (~~a~~1) of this section, the court shall reduce the circumstances, finding and authorization to writing and enter it in the records of the court and shall cause a copy of the authorization to be given to the physician or hospital, or both, that was involved.

(~~e~~5) Oral authorization by the court is sufficient for care or treatment to be given by and shall be accepted by any physician or hospital. No physician or hospital nor any nurse, technician or other person under the direction of such physician or hospital shall be subject to criminal or civil liability for performance of care or treatment in reliance on the court's authorization, and any function performed thereunder shall be regarded as if it were performed with the child's and the parent's authorization.

SECTION 30. That Section 16-1622, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~2~~8. SUPPORT OF COMMITTED CHILD. (~~a~~1) Whenever legal custody of a child is vested in someone other than his parents, after due notice to the parent, guardian or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the child after an order of temporary custody, if any, or the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(~~b~~2) All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code.

(~~c~~3) Failure to include these provisions does not affect the validity of the support order or decree. The court shall require that the

social security numbers of both the obligor and obligee be included in the order or decree.

SECTION 31. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~3~~9. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

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

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

(~~c~~3) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 8~~1~~2, title 39, Idaho Code.

(~~d~~4) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-16~~11~~22, Idaho Code.

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

(~~f~~6) The department shall keep written records of investigations, evaluations, prognoses and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho

Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the exemptions from disclosure provided in chapter 3, title 9, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

(~~g~~7) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department under this chapter.

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

(~~i~~9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing under section 16-16~~11~~22, Idaho Code, the permanency plan and recommendations of the department. There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date the child entered shelter care, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interests of the child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.

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

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

SECTION 32. That Section 16-1624, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~4~~30. OTHER DUTIES OF THE DEPARTMENT -- EXCEPTIONS. (1) Nothing in this chapter shall be construed as modifying duties of the department as described in sections 56-204A and 56-204B, Idaho Code.

(2) Nothing in this chapter shall be construed as assigning or imposing duties or responsibilities on the department by those provisions of this chapter relating to guardian ad litem.

SECTION 33. That Section 16-1625, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~5~~31. AUTHORIZATION FOR DEPARTMENT TO ACT. (~~a~~1) Upon receiving information that a child may be abused, neglected or abandoned, the department shall cause such investigation to be made in accordance with this chapter as is appropriate. In making the investigation the department shall use its own resources, and may enlist the cooperation of peace officers for phases of the investigation for which they are better equipped. Upon satisfying itself as to the course of action which should be pursued to best accord with the purpose of this chapter, the department shall:

(~~1~~a) ~~r~~Resolve the matter in such informal fashion as is appropriate under the circumstances; or

(~~2~~b) ~~s~~Seek to enter a voluntary agreement with all concerned persons to resolve the problem in such a manner that the child will remain in his own home; or

(~~3~~c) ~~r~~Refer the matter to the prosecutor or attorney general with recommendation that appropriate action be taken under this chapter; or

(~~4~~d) ~~r~~Refer the matter to the prosecutor or attorney general with recommendation that appropriate action be taken under other laws.

(~~b~~2) In the event that the department concludes that a voluntary agreement pursuant to subsection (~~a~~1)(~~2~~b) of this section should be used, the agreement shall be in writing, shall state the behavioral basis of each parent and necessary third person, shall contain such other terms as the department and each parent having joint custody shall deem appropriate under the circumstances, shall utilize such resources as are available to the department from any source and are considered appropriate to the situation, shall specify the services or treatment to be undertaken, shall be signed by all persons, including:

(~~1~~a) ~~t~~The child if appropriate;

(~~2~~b) ~~e~~Every parent having joint custody of the subject child;

(~~3~~c) ~~a~~Any other full or part-time resident of the home;

(~~4~~d) ~~a~~All other persons the department considers necessary to the agreement's success;

and shall specify the responsibilities of each party to the agreement, which responsibilities shall be thoroughly explained to each person orally. The agreement shall not run for more than one (1) year. Copies shall be given to all signatories.

SECTION 34. That Section 16-1630, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~0~~2. CHILD ADVOCATE COORDINATOR -- DUTIES -- ANNUAL REPORT. (~~a~~1) The persons or entities receiving moneys from the grant administrator to coordinate a guardian ad litem program in a judicial district

may be required by the terms of the grant to perform any or all of the following duties:

(~~1~~a) To establish, maintain and coordinate a ~~district-wide~~ districtwide guardian ad litem program consistent with the provisions of this chapter;

(~~2~~b) To furnish the necessary administrative and staffing services as may from time to time be required;

(~~3~~c) To act as a central clearinghouse and coordinator for the purpose of providing guardians ad litem for children brought within the purview of this chapter;

(~~4~~d) To seek to have each child brought within the purview of this chapter available to him a guardian ad litem throughout each stage of any child protective proceeding;

(~~5~~e) To establish a program for attorneys to represent guardians ad litem, whether or not appointed by the court in conjunction with the local, ~~district-wide~~ districtwide, and state bar associations;

(~~6~~f) To the extent possible to establish a ~~district-wide~~ districtwide program to recruit volunteer guardians ad litem sufficient to provide services in each county of the judicial district;

(~~7~~g) In conjunction with the department, prosecuting attorneys and city and county law enforcement officials, mental health professionals, social workers, school counselors and the medical community, the coordinators may assist in the development and implementation~~,~~ of a statewide uniform protocol for the investigation of allegations of abuse, neglect or abandonment pursuant to the provisions of this chapter;

(~~8~~h) To develop uniform criteria to screen, select, train and remove guardians ad litem;

(~~9~~i) To establish a priority list of those proceedings under this chapter in which a guardian ad litem shall be appointed in districts where there are insufficient numbers of guardians ad litem.

(~~b~~2) Each child advocate coordinator shall submit an annual report for the preceding fiscal year to the grant administrator for delivery to the legislature no later than ten (10) days following the start of each regular session. Such report shall contain the number and type of proceedings filed in the district under this chapter, the number of children subject to proceedings in the district under this chapter and the number of appointed guardians ad litem, the nature of services the guardians ad litem provided, the number of guardians ad litem trained in each district, the number of hours of service provided by guardians ad litem and attorneys and a complete financial statement for the past year and financial support requirements for the next fiscal year.

SECTION 35. That Section 16-1631, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~1~~3. GUARDIAN AD LITEM -- DUTIES. Subject to the direction of the court, the guardian ad litem shall have the following duties which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(~~a~~1) To conduct an independent factual investigation of the circumstances of the child including, without limitation, the circumstances described in the petition.

(~~b~~2) To file with the court a written report stating the results of the investigation, the guardian ad litem's recommendations and such other information as the court may require. The guardian ad litem's written report shall be delivered to the court, with copies to all parties to the case at least five (5) days before the date set for the adjudicatory hearing. The report shall not be admitted into evidence at the adjudicatory hearing, and shall be used by the court only for disposition if the child is found to be within the purview of the act.

(~~c~~3) To act as an advocate for the child for whom appointed at each stage of proceedings under this chapter and is charged with the general representation of the child. To that end, the guardian ad litem shall participate fully in the proceedings and to the degree necessary to adequately represent the child, and shall be entitled to confer with the child, and the child's siblings and parents.

(~~d~~4) To facilitate and negotiate to ~~insure~~ ensure that the court, the department, if applicable, and the child's attorney, if any, fulfill their obligations to the child in a timely fashion.

(~~e~~5) To monitor the circumstances of a child, if the child is found to be within the purview of the act, to assure compliance with law and to assure that the terms of the court's orders are being fulfilled and remain in the best interest of the child.

(~~f~~6) To meet with any parent having joint legal or physical custody of the child, record the concerns of the parent, and report them to the court or file an affidavit stating why no meeting occurred.

(~~g~~7) To maintain all information regarding the case confidential and to not disclose the same except to the court or to other parties to the case.

(~~h~~8) Such other and further duties as may be expressly imposed by the court order.

SECTION 36. That Section 16-1632, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~2~~4. GUARDIAN AD LITEM -- RIGHTS AND POWERS. The guardian ad litem will have the following rights and powers, which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(~~a~~1) The guardian ad litem, if represented by counsel, may file pleadings, motions, memoranda and briefs on behalf of the child, and shall have all of the rights of a party whether conferred by statute, rule of court or otherwise.

(~~b~~2) All parties to any proceeding under this chapter shall promptly notify the guardian ad litem and the guardian's attorney of all hearings, staffings, investigations, depositions and significant changes of circumstances of the child.

(~~c~~3) Except to the extent prohibited or regulated by federal law or by the provisions of chapter 8~~1~~2, title 39, Idaho Code, upon presentation of a copy of the order appointing guardian ad litem, any person or agency, including, without limitation, any hospital, school, organization, department of health and welfare, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the guardian ad litem to inspect and copy pertinent records necessary for the proceeding for which the guardian is

appointed relating to the child and parent without consent of the child or parents.

SECTION 37. That Section 16-1633, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~3~~5. IMMUNITY FROM LIABILITY. Any person appointed as a guardian ad litem, the coordinator, or a guardian ad litem volunteer program employee shall be personally immune from any liability for acts, omissions or errors in the same manner as if such person were a volunteer officer or director under the provisions of section 6-1605, Idaho Code.

SECTION 38. That Section 16-1634, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~4~~6. COMPLIANCE WITH FEDERAL LAW. For the purposes of the child abuse prevention and treatment act, 42 U.S.C. sections 5101 et seq., grant to this state under public law no. 93-247, or any related state or federal legislation, a guardian ad litem or other person appointed pursuant to section 16-161~~8~~4, Idaho Code, shall be deemed a guardian ad litem to represent the interests of the minor in proceedings before the court. Any provisions of this ~~act~~ chapter which shall cause this state to lose federal funding shall be considered null and void.

SECTION 39. That Section 16-1635, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~5~~7. EXEMPTION. Any person appointed as a guardian ad litem by court order shall be exempt from the provisions of chapter 32, title 54, Idaho Code.

SECTION 40. That Section 16-1636, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~6~~8. GUARDIAN AD LITEM ACCOUNT -- CREATION. (~~a~~1) There is hereby created an account in the agency asset fund in the state treasury to be designated the guardian ad litem account.

(~~b~~2) The account shall consist of:

(~~1~~a) Moneys appropriated to the account;

(~~2~~b) Donations, gifts and grants to the account from any source; and

(~~3~~c) Any other moneys which may hereafter be provided by law.

(~~c~~3) Moneys in the account may be expended for the purposes provided in sections 16-163~~0~~2 through 16-163~~6~~8, Idaho Code. Interest earned on the investment of idle money in the guardian ad litem account shall be returned to the guardian ad litem account.

(~~d~~4) Disbursements of moneys from the account shall be by appropriation from the legislature to the supreme court, which shall in turn make payment of available moneys, upon request, to the grant administrator for the payment of grants to qualified recipients and for expenses incurred for carrying out the provisions of this ~~act~~ chapter.

SECTION 41. That Section 16-1637, Idaho Code, be, and the same is hereby amended to read as follows:

16-163~~7~~9. GUARDIAN AD LITEM GRANTS. The grant administrator is hereby authorized and directed to award and administer grants from the money which shall be from time to time available to him from the guardian ad litem account. The foregoing power and authorization shall be subject to the following provisions:

(~~a~~1) Grants may be made available to any person, organization, corporation, or agency for any of the following purposes:

(~~1~~a) To enable such entity to act as the child advocate coordinator in any judicial district.

(~~2~~b) To enable such entity to recruit, organize and administer a panel of guardians ad litem and volunteer lawyers to represent guardians ad litem.

(~~3~~c) To enable such entity to recruit, organize, train and support persons or entities to act as guardian ad litem coordinators in judicial districts which do not yet have guardian ad litem coordinators.

(~~4~~d) To enable such entity to pay the administrative and other miscellaneous expenses incurred in carrying out the provisions of the guardian ad litem program.

(~~b~~2) The grant administrator shall endeavor in his allocation of funds available to him to foster the development and operation of a guardian ad litem program in each judicial district in the state; provided, however, the grant administrator shall have no obligation to seek out or organize child advocate coordinators or persons willing to act as such in judicial districts lacking a child advocate coordinator.

(~~c~~3) Funds available to the grant administrator from the guardian ad litem account may be also used to pay the grant administrator's cost of performing its duties and obligations pursuant to this chapter.

SECTION 42. That Section 16-1626, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~6~~40. ADMINISTRATIVE PROCEDURE~~S~~ ACT. Nothing in this chapter shall be construed to alter the requirements provided in ~~C~~chapter 52, ~~T~~title 67, Idaho Code.

SECTION 43. That Section 16-1627, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~7~~41. CONSTRUCTION. This chapter shall be liberally construed to accomplish the purposes herein set forth.

SECTION 44. That Section 16-1628, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~8~~42. SHORT TITLE. This chapter shall be known and cited as the "Child Protective Act."

SECTION 45. That Section 16-1629, Idaho Code, be, and the same is hereby amended to read as follows:

16-162~~9~~43. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared

invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

SECTION 46. That Section 16-2001, Idaho Code, be, and the same is hereby amended to read as follows:

16-2001. PURPOSE. (1) The purpose of this act chapter is to:

(a) Pprovide for voluntary and involuntary severance of the parent and child relationship and for substitution of parental care and supervision by judicial process, thereby safeguarding the rights and interests of all parties concerned and promoting their welfare and that of the state of Idaho; and

(b) Provide permanency for children who are under the jurisdiction of the court through the child protective act, chapter 16, title 16, Idaho Code, where the court has found the existence of aggravated circumstances or that reasonable efforts to return the child to his or her home have failed.

(2) Implicit in this act chapter is the philosophy that wherever possible family life should be strengthened and preserved and that the issue of severing the parent and child relationship is of such vital importance as to require a judicial determination in place of attempts at severance by contractual arrangements, express or implied, for the surrender and relinquishment of children. Nothing in this chapter shall be construed to allow discrimination in favor of, or against, on the basis of disability.

SECTION 47. That Section 16-2002, Idaho Code, be, and the same is hereby amended to read as follows:

16-2002. DEFINITIONS. When used in this act chapter, unless the text otherwise requires:

a.(1) "Court" means the district court or magistrate's division thereof or, if the context requires, a judge or magistrate thereof.

b.(2) "Child" or "minor" means a person less than any individual who is under the age of eighteen (18) years. of age.

c.--The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of the act.

d.(3) "Neglected" used with respect to a child refers to those situations in which the child lacks proper support or parental care necessary for his health, morals, and well-being means:

(a) Conduct as defined in section 16-1602(25), Idaho Code; or

(b) The parent(s) has failed to comply with the court's orders in a child protective act case or the case plan, and reunification of the child with his or her parent(s) has not occurred within the time standards set forth in section 16-1629(9), Idaho Code.

e.(4) "Abused" used with respect to a child refers to those situations in which physical cruelty in excess of that required for reasonable disciplinary purposes has been inflicted by a parent or other person in whom legal custody of the child has been vested means conduct as defined in section 16-1602(1), Idaho Code.

(5) "Abandoned" means the parent has willfully failed to maintain a normal parental relationship including, but not limited to, reasonable support or regular personal contact. Failure of the parent to maintain this relationship without just cause for a period of one (1) year shall

constitute prima facie evidence of abandonment under this section; provided however, where termination is sought by a grandparent seeking to adopt the child, the willful failure of the parent to maintain a normal parental relationship as provided herein without just cause for six (6) months shall constitute prima facie evidence of abandonment.

~~f.~~(6) "Legal custody" means status created by court order ~~embodying~~ which vests in a custodian the following rights and responsibilities:

(~~1~~a) ~~The--right--to~~ To have physical ~~possession~~ custody and control of the child and to determine where and with whom the child shall live;

(~~2~~b) ~~The--right-and-duty-to-protect,-train-and-discipline~~ To supply the child with food, clothing, shelter and incidental necessities; ~~and~~

(~~3~~c) ~~The--responsibility--t~~To provide the child with ~~food,-shelter,-education-and-medical~~ care, education and discipline; and

(d) To authorize medical, dental, psychiatric, psychological and other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children;

provided that such rights and responsibilities shall be exercised subject to the powers, rights, duties and responsibilities of the guardian of the person.

~~g.~~(7) "Guardianship of the person" means those rights and duties imposed upon a person appointed as guardian of a minor under the laws of Idaho. It includes but is not necessarily limited either in number or kind to:

(~~1~~a) The authority to consent to marriage, to enlistment in the armed forces of the United States, and to major medical, psychiatric and surgical treatment; to represent the minor in legal actions; and to make other decisions concerning the child of substantial legal significance;

(~~2~~b) The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;

(~~3~~c) The rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized child placement agency;

(~~4~~d) When the parent and child relationship has been terminated by judicial decree with respect to the parents, or only living parent, or when there is no living parent, the authority to consent to the adoption of the child and to make any other decision concerning the child which the child's parents could make.

~~h.~~(8) "Guardian ad litem" means a person appointed ~~as-such~~ by the court pursuant to ~~law,-by-the-court-to-protect-the-interest-of--a--minor or--an--incompetent-in-a-case-before-the-court~~ section 16-1614 or 5-306, Idaho Code.

~~i.~~(9) "Authorized agency" means the ~~state~~ department, ~~of-health-and welfare-or-a-voluntary-child-placement-agency-licensed-to-care--for--and place--children--by--the--state-department-of-health-and-welfare~~ a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(10) "Department" means the department of health and welfare and its authorized representatives.

~~j.~~(11) "Parent" means:

(~~1~~a) The birth mother or the adoptive mother;

(~~2~~b) The adoptive father;

(~~3~~c) The biological father of a child conceived or born during the father's marriage to the birth mother; and

(~~4~~d) The unmarried biological father whose consent to an adoption of the child is required pursuant to section 16-1504, Idaho Code.~~;~~

~~(5) A man whose paternity is established by court decree; and~~

~~(6) 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~~

~~(7) The father of an illegitimate child who has adopted the child by acknowledgment pursuant to section 16-1510, Idaho Code.~~

~~k.~~(12) "Presumptive father" means a man who is or was married to the birth mother and the child is born during the marriage or within three hundred (300) days after the marriage is terminated.

~~l.~~(13) "Parent and child relationship" includes all rights, privileges, duties and obligations existing between parent and child, including inheritance rights, and shall be construed to include adoptive parents.

~~m. "Protective supervision" means a legal status created by court order in proceedings not involving violations of the law but where the legal custody of the child is subject to change, whereby the child is permitted to remain in his home under the supervision of an authorized agency designated by the court and is subject to return to the court during the period of protective supervision.~~

~~n.~~(14) "Parties" includes the child and the petitioners.

~~o. "Rape," (18-6101, Idaho Code); "lewd conduct with a minor child under sixteen," (18-1508, Idaho Code); "sexual abuse of a child under the age of sixteen years," (18-1506, Idaho Code); and "incest" (18-6602, Idaho Code) shall be defined as provided in the applicable provisions of title 18, Idaho Code, but for purposes of this chapter shall not include any circumstance where the parents of the child in question were married at the time of conception.~~

~~p.~~(15) "Unmarried biological father," as used in this chapter and chapter 15, title 16, Idaho Code, means the biological father of a child~~, which biological father~~ who was not married to the child's mother at the time the child was conceived or born.

~~q.~~(16) "Unmarried biological mother," as used in this chapter, means the biological mother of a child~~, which biological mother~~ who was not married to the child's biological father at the time the child was conceived or born.

~~r.~~(17) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning, or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, 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.

~~s.~~(18) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain, or improve the parenting abilities of a parent with a disability.

~~t.~~(19) "Supportive services" means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as Braille texts or sign language interpreters.

SECTION 48. That Section 16-2003, Idaho Code, be, and the same is hereby amended to read as follows:

16-2003. JURISDICTION. The court shall have exclusive original jurisdiction, other than as provided in title 32, Idaho Code, to hear petitions to terminate the parent and child relationship when the child is present in the state. When a court has jurisdiction over the child under the child protective act, chapter 16, title 16, Idaho Code, that court shall have exclusive jurisdiction of the action to terminate parental rights unless it consents to a different venue or jurisdiction in the best interests of the child.

SECTION 49. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The court may grant an order terminating the relationship where it finds that termination of parental rights is in the best interests of the child and that one (1) or more of the following conditions exist:

(a)~~.~~ The parent has abandoned the child. ~~by having willfully failed to maintain a normal parental relationship including, but not limited to, reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section. Provided further, that where termination is sought by a grandparent seeking to adopt the child, willful failure of the parent to maintain a normal parental relationship as provided herein, without just cause, for six (6) months shall constitute prima facie evidence of abandonment.~~

(b)~~.~~ The parent has neglected or abused the child. ~~Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.~~

(c)~~.~~ The presumptive parent is not the ~~natural~~ biological parent of the child.

(d)~~.~~ The parent is unable to discharge parental responsibilities and such inability will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

(e) The parent has been incarcerated and is likely to remain incarcerated for a substantial period of time during the child's minority.

(2) The court may grant an order terminating the relationship and may rebuttably presume that such termination of parental rights is in the best interests of the child where:

(a) The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under the age of sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years, as defined in sections 18-6101, 18-1508, 18-1506 and 18-6602, Idaho Code;

(b) The parent has subjected the child to torture, chronic abuse or sexual abuse, has committed murder or intentionally killed the other parent of the child, has committed murder or voluntary manslaughter of another child or has aided, abetted, conspired or solicited to commit such murder or voluntary manslaughter, and/or has committed battery which resulted in serious bodily injury to a child; or

(c) The court determines the child to be an abandoned infant, except in a parental termination action brought by one (1) parent against another parent.

~~e.~~(3) ~~If~~ The court may grant an order terminating the relationship if termination is found to be in the best interest of the parent and child~~, where the petition has been filed by a parent or through an authorized agency, or interested party~~.

~~f.~~(4) ~~Where~~ The court may grant an order terminating the relationship where a consent to termination in the manner and form prescribed by this ~~act~~ chapter has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this ~~act~~ chapter must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting 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 of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., ..., unto ...., hereby relinquishing completely and forever, 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 hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

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)

The court shall accept a consent or a surrender and release executed in another state if:

(1) It is witnessed by a magistrate or district judge of the state where signed; or

(2) The court receives an affidavit or a certificate from a court of comparable jurisdiction stating that the consent or the surrender and release 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 consent or surrender and release was executed in accordance with the laws of the state in which it was executed; or

(3) The court shall accept a termination or relinquishment from a sister state that has been ordered by a court of competent jurisdiction under like proceedings; or in any other manner authorized by the laws of a sister state. In a state where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided for pursuant to the laws of such state, and where such failure constitutes an abandonment of such child and constitutes a termination or relinquishment of the rights of the putative father, the court shall accept such failure as a termination in this state without further hearing on the merits, if the court is satisfied that such failure constitutes a termination or relinquishment of parental rights pursuant to the laws of that state.

~~g.~~(5) Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

~~h.--The court may grant termination as to a parent:~~

~~(1)--Who--caused--the--child--to--be--conceived as a result of rape, incest, lewd conduct with a minor child under sixteen (16) years, or sexual abuse of a child under the age--of--sixteen--(16)--years,--as defined in section 16-2002 o., Idaho Code; or~~

~~(2)--Who--murdered--or--intentionally killed the other parent of the child; or if the court determines the parent has been--convicted--of murder--or voluntary manslaughter of another sibling of the child or has aided, abetted, conspired or solicited to commit such murder--or voluntary manslaughter and/or if the court determines the parent has been--convicted--of--a--felony--assault or battery which resulted in serious bodily injury to the child or a sibling; or~~

~~(3)--Who has been incarcerated and has no possibility of parole; or~~

~~(4)--If a court determines the child to be an abandoned infant.~~

~~There is a rebuttable presumption that termination of the parent-child relationship in any of the circumstances provided in subsection g. of this section is in the best interest of the child.~~

~~i.~~(6) If the parent has a disability, as defined in this chapter, the parent shall have the right to provide evidence to the court 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. Nothing in this section shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

SECTION 50. 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.~~,~~ ~~and~~ The petitioner shall ~~cause~~ give notice ~~thereof to be given to the petitioner, the parents of the child if married, the mother of the child if unmarried, those persons entitled to notice pursuant to section 16-1513, Idaho Code, the guardian of the person of the child, the person~~ to any person entitled to notice under section 16-1505, Idaho Code, the authorized agency having legal custody of the child~~, any individual standing in loco parentis to the child,~~ and the guardian ad litem of ~~any party, or if service cannot be had on the parent or guardian, then upon the nearest blood relative named in the petition. The division of welfare of~~ the child and of a parent. The petitioner shall give notice to the Idaho department of health and welfare ~~shall be given notice of the hearing~~ 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 ~~before the court or in the presence of, and witnessed by, a clerk of court or a representative of an authorized agency, provided that such parent has been apprised by the court or by such person of the meaning and consequences of the termination action. Where the parent resides outside the state, the waiver shall be acknowledged before a notary of the state and shall contain the current address of the parent. The parent who has executed such a waiver shall not be required to appear~~ 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. Where the putative father has failed to timely commence 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 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 ~~81~~2, 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 51. That Section 16-2010, Idaho Code, be, and the same is hereby amended to read as follows:

16-2010. DECREE. (1) Every order of the court terminating the parent and child relationship or transferring legal custody or guardianship of the person of the child~~, or providing for protective supervision of the child,~~ shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

(2)(a)~~.~~ If the court finds sufficient grounds exist for the termination of the parent and child relationship, it shall so decree and:

(~~1~~i) Appoint an individual as guardian of the child's person, or

(~~2~~ii) Appoint an individual as guardian of the child's person and vest legal custody in another individual or in an authorized agency, or

(~~3~~iii) Appoint an authorized agency as guardian of the child's person and vest legal custody in such agency.

(b) The court shall also make an order fixing responsibility for the child's support. The parent and child relationship may be terminated with respect to one (1) parent without affecting the relationship between the child and the other parent.

~~b.~~(3) Where the court does not order termination of the parent and child relationship, it shall dismiss the petition; provided~~,~~ however, that where the court finds that the best interest of the child requires substitution or supplementation of parental care and supervision, it shall make an order placing the child under protective supervision, or vesting temporary legal custody in an authorized agency, fixing responsibility for temporary child support, and designating the period of time during which the order shall remain in effect.

~~c.~~(4) If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare, the court, upon petition, shall conduct a hearing as to the future status of the child within twelve (12) months of the order of termination of parental rights, and every twelve (12) months subsequently until the child is adopted or is in a placement sanctioned by the court.

SECTION 52. That Section 18-609A, Idaho Code, be, and the same is hereby amended to read as follows:

18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS.

(1) (a) No person shall knowingly cause or perform an abortion upon a minor unless:

(i) The attending physician has secured the written informed consent of the minor and the written informed consent of the minor's parent; or

(ii) The minor is emancipated and the attending physician has received written proof of emancipation and the minor's written informed consent; or

(iii) The minor has been granted the right of self-consent to the abortion by court order pursuant to paragraph (b) of this subsection and the attending physician has received the minor's written informed consent; or

(iv) A court has found that the causing or performing of the abortion, despite the absence of informed consent of a parent, is in the best interests of the minor and the court has issued an order, pursuant to paragraph (b)(iv)2. of this subsection, granting permission for the causing or performing of the abortion, and the minor is having the abortion willingly, pursuant to paragraph (f) of this subsection; or

(v) A medical emergency exists for the minor so urgent that there is insufficient time for the physician to obtain the informed consent of a parent or a court order and the attending physician certifies such in the pregnant minor's medical records. In so certifying, the attending physician must include the factual circumstances supporting his professional judgment that a medical emergency existed and the grounds for the determination that there was insufficient time to obtain the informed consent of a parent or a court order. Immediately after an abortion pursuant to this paragraph, the physician shall, with due diligence, attempt to provide a parent of an unemancipated minor actual notification of the medical emergency. If the parent cannot be immediately contacted for such actual notification, the physician shall, with due diligence, attempt to provide actual notification to a parent for an eight (8) hour period following the causing or performing of the abortion and shall, until a parent receives such notification, ensure that the minor's postabortion medical needs are met. Notwithstanding the above, a physician shall, within twenty-four (24) hours of causing or performing an abortion pursuant to this paragraph, provide actual notification of the medical emergency by:

1. Conferring with a parent or agent designated by the parent, and providing any additional information needed for the minor's proper care, and, as soon as practicable thereafter, securing the parent's written acknowledgement of receipt of such notification and information; or

2. Providing such actual notification in written form, addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent with written acknowledgement of such receipt by the parent returned to the physician; or

3. Providing such actual notification in written form and mailing it by certified mail, addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee so that a postal employee can only deliver the notice to the authorized addressee.

For the purposes of this section, "actual notification" includes, but is not limited to, a statement that an abortion

was caused or performed, a description of the factual circumstances supporting the physician's judgment that the medical emergency existed and a statement of the grounds for the determination that there was insufficient time to obtain the informed consent of a parent or a court order.

If the physician causing or performing such abortion reasonably believes that the minor is homeless or abandoned so that the parents cannot be readily found or that the minor has suffered abuse or neglect such that the minor's physical safety would be jeopardized if a parent were notified that the abortion was caused or performed, the physician shall, in lieu of notifying a parent as required above, make a report to a law enforcement agency pursuant to section 16-16~~1~~905, Idaho Code, and a petition shall be filed pursuant to section 16-160510, Idaho Code, which petition shall include a reference to this code section. Upon adjudication that the minor comes within the purview of chapter 16, title 16, Idaho Code, either on the basis of homelessness or abandonment such that no parent can be found, or on the basis of abuse or neglect such that the minor's physical safety would be in jeopardy if a parent were notified that the abortion was performed, the court shall, as a part of the decree, also order that the physician's duty to so notify a parent is relieved. In any other event, unless the court enters a finding that the best interests of the child require withholding notice to a parent, the court shall order that a parent receive actual notification of the medical emergency and the causing or performing of the abortion.

(b) A proceeding for the right of a minor to self-consent to an abortion pursuant to paragraph (a)(iii) of this subsection or for a court order pursuant to paragraph (a)(iv) of this subsection, may be adjudicated by a court as follows:

(i) The petition shall be filed in the county where the minor resides or the county where the abortion is caused or performed. A minor shall have the legal capacity to make and prosecute a petition and appeal as set out herein. A guardian ad litem may assist the minor in preparing her petition and other documents filed pursuant to this section and may seek appointment as set forth below. A guardian ad litem, whether prospective or appointed, must be an attorney properly licensed in this state. The court shall ensure that the minor is given assistance in filing the petition if the minor so desires a guardian ad litem but no qualified guardian ad litem is available.

(ii) The petition shall set forth:

1. The initials of the minor;
2. The age of the minor;
3. The name and address of each parent, guardian, or, if the minor's parents are deceased or the minor is abandoned and no guardian has been appointed, the name and address of any other person standing in loco parentis of the minor;
4. That the minor has been fully informed of the risks and consequences of the abortion procedure to be performed;

5. A claim that the minor is mature, of sound mind and has sufficient intellectual capacity to consent to the abortion for herself;

6. A claim that, if the court does not grant the minor the right to self-consent to the abortion, the court should find that causing or performing the abortion, despite the absence of the consent of a parent, is in the best interest of the minor and give judicial consent to the abortion; and

7. If so desired by the minor, a request that the court appoint a guardian ad litem, or, alternatively, if no guardian ad litem is requested, that the court should consider whether appointment of a guardian ad litem for the minor is appropriate.

The petition shall be signed by the minor and, if she has received assistance from a prospective guardian ad litem in preparing the petition, by the guardian ad litem.

(iii) A hearing on the merits of the petition shall be held as soon as practicable but in no event later than five (5) days from the filing of the petition. The petition shall be heard by a district judge on the record in a closed session of the court. The court shall appoint a qualified guardian ad litem for the minor if one is requested in the petition. If no qualified guardian ad litem is available, the court may appoint some other person to act in the capacity of a guardian ad litem, who shall act to fulfill the purposes of this section and protect the confidentiality and other rights of the minor.

At the hearing, the court shall, after establishing the identity of the minor, hear evidence relating to the emotional development, maturity, intellect and understanding of the minor; the nature of the abortion procedure to be performed and the reasonably foreseeable complications and risks to the minor from such procedure, including those related to future childbearing; the available alternatives to the abortion; the relationship between the minor and her parents; and any other evidence that the court may find relevant in determining whether the minor should be granted the right to self-consent to the abortion or whether the court's consent to causing or performing of the abortion, despite the absence of consent of a parent, is in the best interests of the minor.

(iv) The order shall be entered as soon as practicable, but in no event later than five (5) days after the conclusion of the hearing. If, by clear and convincing evidence, the court finds the allegations of the petition to be true and sufficient to establish good cause, the court shall:

1. Find the minor sufficiently mature to decide whether to have the abortion and grant the petition and give the minor the right of self-consent to the abortion, setting forth the grounds for so finding; or

2. Find the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor and give judicial consent to the abortion, setting forth the grounds for so finding.

If the court does not find the allegations of the petition

to be true or if good cause does not appear from the evidence heard, the court shall deny the petition, setting forth the grounds on which the petition is denied.

If, in hearing the petition, the court becomes aware of allegations which, if true, would constitute a violation of any section of title 18, Idaho Code, by a person other than the petitioner, or would bring a child within the purview of chapter 16, title 16, Idaho Code, the court shall order, upon entry of final judgment in the proceeding under this subsection, that an appropriate investigation be initiated or an appropriate information, complaint or petition be filed. Such allegations shall be forwarded by the court with due consideration for the confidentiality of the proceedings under this section. If, but for the requirements for proof as set forth in this section, the minor would have been privileged to withhold information given or evidence produced by her, the answers given or evidence produced and any information directly or indirectly derived from her answers may not be used against the minor in any manner in a criminal case, except that she may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering or failing to answer, or in producing or failing to produce, evidence as required by the court.

(c) A notice of appeal from an order issued under the provisions of this subsection shall be filed within two (2) days from the date of issuance of the order. The record on appeal shall be completed and the appeal shall be perfected as soon as practicable, but in no event later than five (5) days from the filing of notice of appeal. Because time may be of the essence regarding the performance of the abortion, appeals pursuant to this subsection shall receive expedited appellate review.

(d) Except for the time for filing a notice of appeal, a court may enlarge the times set forth pursuant to this subsection upon request of the minor or upon other good cause appearing, with due consideration for the expedited nature of these proceedings.

(e) No filing, appeal or other fees shall be charged for cases or appeals brought pursuant to this section.

(f) If a minor desires an abortion, then she shall be orally informed of, and, if possible, sign the written consent required by this act, in the same manner as an adult person. No abortion shall be caused or performed on any minor against her will, except that an abortion may be performed against the will of a minor pursuant to court order if the abortion is necessary to preserve the life of the minor.

(g) All records contained in court files of judicial proceedings arising under the provisions of this subsection, and subsection (3) of this section, shall be confidential and exempt from disclosure pursuant to section 9-340C, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names of the parties to actions brought pursuant to this section will not be disclosed to the public.

(2) The administrative director of the courts shall compile statistics for each county for each calendar year, accessible to the public, including:

(a) The total number of petitions filed pursuant to paragraph (b) of subsection (1) of this section; and

(b) The number of such petitions filed where a guardian ad litem was requested and the number where a guardian ad litem or other person acting in such capacity was appointed; and

(c) The number of such petitions for which the right to self-consent was granted; and

(d) The number of such petitions for which the court granted its informed consent; and

(e) The number of such petitions which were denied; and

(f) For categories described in paragraphs (c), (d) and (e) of this subsection, the number of appeals taken from the court's order in each category; and

(g) For each of the categories set out in paragraph (f) of this subsection, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed.

(3) In addition to any other cause of action arising from statute or otherwise, any person injured by the causing or performing of an abortion on a minor in violation of any of the requirements of paragraph (a) of subsection (1) of this section, shall have a private right of action to recover all damages sustained as a result of such violation, including reasonable attorney's fees if judgment is rendered in favor of the plaintiff.

(4) Statistical records.

(a) The vital statistics unit of the department of health and welfare shall, in addition to other information required pursuant to section 39-261, Idaho Code, require the complete and accurate reporting of information relevant to each abortion performed upon a minor which shall include, at a minimum, the following:

(i) Whether the abortion was performed following the physician's receipt of:

1. The written informed consent of a parent and the minor; or

2. The written informed consent of an emancipated minor for herself; or

3. The written informed consent of a minor for herself pursuant to a court order granting the minor the right to self-consent; or

4. The written informed consent of a court pursuant to an order which includes a finding that the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor; or

5. The professional judgment of the attending physician that the performance of the abortion was immediately necessary due to a medical emergency and there was insufficient time to obtain consent from a parent or a court order.

(ii) If the abortion was performed due to a medical emergency and without consent from a parent or court order, the diagnosis upon which the attending physician determined that the abortion was immediately necessary due to a medical emergency.

(b) The knowing failure of the attending physician to perform any one (1) or more of the acts required under this subsection is

grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject the physician to assessment of a civil penalty of one hundred dollars ($100) for each month or portion thereof that each such failure continues, payable to the center for vital statistics and health policy, but such failure shall not constitute a criminal act.

(5) As used in this section:

(a) "Cause or perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage upon a minor known to be pregnant.

(b) "Emancipated" means any minor who has been married or is in active military service.

(c) (i) "Medical emergency" means a sudden and unexpected physical condition which, in the reasonable medical judgment of any ordinarily prudent physician acting under the circumstances and conditions then existing, is abnormal and so complicates the medical condition of the pregnant minor as to necessitate the immediate causing or performing of an abortion:

1. To prevent her death; or

2. Because a delay in causing or performing an abortion will create serious risk of immediate, substantial and irreversible impairment of a major physical bodily function of the patient.

(ii) The term "medical emergency" does not include:

1. Any physical condition that would be expected to occur in normal pregnancies of women of similar age, physical condition and gestation; or

2. Any condition that is predominantly psychological or psychiatric in nature.

(d) "Minor" means a woman less than eighteen (18) years of age.

(e) "Parent" means one (1) parent of the unemancipated minor, or a guardian appointed pursuant to chapter 5, title 15, Idaho Code, if the minor has one.

SECTION 53. That Section 39-258, Idaho Code, be, and the same is hereby amended to read as follows:

39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE ISSUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STATISTICS. (a) Whenever a final decree of adoption, issued by an Idaho court, declares a person born in Idaho to be adopted by someone other than his or her natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court.

(b) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attor-

ney. The provision of such information shall be prerequisite to the issuance of a final decree in the matter of the court.

(c) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the vital statistics unit in the state department of health and welfare.

(d) If a court of some other state issued a decree or report of adoption of a person actually born in Idaho, the certified copy or report may be similarly filed by the person involved or by the adoptive parents. Failure to file certified copies or reports of said decrees within said period of time, however, shall not bar issuance of a new birth certificate as hereinafter provided. This copy of said decree or report shall be filed with and remain a part of the records of the vital statistics unit.

(e) Upon receipt by the vital statistics unit of the certified report of adoption, a new certificate of birth shall be issued (but only in cases where such person's birth is already recorded with the vital statistics unit) bearing among other things the name of the person adopted, as shown in the report of adoption, except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person. No such birth certificate shall have reference to the adoption of said person. Such birth certificate shall supplant and constitute a replacement of any birth certificate previously issued for said person and shall be the only birth certificate open to public inspection.

Provided~~,~~ however, upon good cause shown and the affidavit of the adoptive parents that a diligent search has been made, but no certificate of birth for the adoptive child can be located, the probate judge may order the adoptive child examined, at the expense of the adoptive parents, by a doctor of medicine licensed by the state of Idaho. The examination will be conducted pursuant to rules ~~and regulations~~ promulgated by the state board of health and welfare for the purpose of determining those matters required for the issuance of an original birth certificate. Upon the examination of the doctor made pursuant to the rules ~~and regulations~~ of the state board of health and welfare, the court may order the vital statistics unit to issue an original birth certificate for the adoptive child based upon those facts determined by the examination and included in the court's order. In such case a certified copy of the court order shall be provided to the vital statistics unit.

(f) In respect to form and nature of contents, such a new birth certificate shall be identical with a birth certificate issued to natural parents for the birth of a child, except that the adoptive parents shall be shown as parents and the adopted person shall have the name assigned by the decree of adoption as shown on the report of adoption. In a case where a single person adopts another person, any new birth certificate may designate the adopting parent as adoptive.

(g) Whenever an adoption decree is amended, annulled or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment or rescindment to the vital statistics unit in accordance with the time provisions in subsection (c) of this section. Unless otherwise directed by the court, the vital statistics unit shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence

shall not be subject to inspection except upon order of a court of record of this state.

(h) All records and information specified in this section other than a new birth certificate issued hereunder, and all records, files and information of any court in this state relating to adoption proceedings, shall not be open to inspection except as provided in section 39-259A, Idaho Code, or upon the order of a court of record of this state; provided~~,~~ however, that the provisions of section 16-160~~9~~16, Idaho Code, to the contrary notwithstanding, any probate court, or the judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

SECTION 54. That Section 39-259, Idaho Code, be, and the same is hereby amended to read as follows:

39-259. ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES. (a) When it appears from a final decree of adoption issued by an Idaho court that a person born in a foreign country has been adopted in Idaho by someone other than the person's natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall contain evidence from sources determined to be reliable by the court as to the true or probable date and place of birth and parentage of such person; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court. Upon receipt by the state registrar of vital statistics of the report of adoption, the state registrar of vital statistics shall make and file a new birth certificate for the child when requested to do so by the court decreeing the adoption, the adoptive parents, or the adopted person. The new birth certificate shall show the true or probable foreign country (and city, town, village or other local designation, if known) of birth and the true or probable date of birth as established by the court and shown on the court report of adoption, the child's new name and parentage as stated in the report of adoption, and any other necessary facts as required by the state registrar. This birth certificate shall not be evidence of United States citizenship. The form and content of the certificate of foreign birth shall be established by the director.

(b) All records and information specified in this section other than a new birth certificate issued hereunder, and all records, files and information of any court in this state relating to adoption proceedings, shall not be open to inspection except as provided in section 39-259A, Idaho Code, or upon the order of a court of record of this state; provided~~,~~ however, that the provisions of section 16-160~~9~~16, Idaho Code, to the contrary notwithstanding, any probate court, or the judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

(c) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the vital statistics unit in the state department of health and welfare.

(d) Whenever an adoption decree is amended, annulled or rescinded,

the clerk of the court shall forward a certified copy of the amendment, annulment or rescindment to the vital statistics unit in accordance with the time provisions in subsection (c) of this section. Unless otherwise directed by the court, the vital statistics unit shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the Idaho birth certificate shall be removed from the file and along with the decree of annulment or rescindment shall be placed in the sealed file for that person. Such sealed file shall not be subject to inspection except upon order of a court of record of this state.

SECTION 55. That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the rules of the board, the provisions of section 9-302, Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the rules of the board.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request to a state, federal or local public agency for child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-162~~2~~8, 20-524, 32-710A, and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) As provided in chapter 3, title 9, Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with chapter 3, title 9, Idaho Code.

SECTION 56. That Section 39-8105, Idaho Code, as added by Section 1, Chapter 357, Laws of 2001, be, and the same is hereby amended to read as follows:

39-~~8105~~8205. SHELTER CARE HEARING -- INVESTIGATION -- ADJUDICATORY HEARING -- TERMINATION OF PARENT-CHILD RELATIONSHIP. (1) A shelter care hearing shall be held pursuant to section 16-161~~4~~5, Idaho Code, and the department shall file a petition for adjudicatory hearing to vest legal custody in the department pursuant to section 16-16~~10~~21, Idaho Code, at or prior to the time set for shelter care hearing.

(2) A child protective investigation or criminal investigation shall not be initiated based on a claim of abandonment unless a claim of parental rights is made and the court orders the investigation.

(3) During the initial thirty (30) day period from the time the child was delivered to a safe haven by a custodial parent, the department shall request assistance from law enforcement officials to investigate through the missing children information clearinghouse and other state and national resources to ensure that the child is not a missing child.

(4) An adjudicatory hearing shall be conducted pursuant to the provisions of section 16-160~~8~~19, Idaho Code, and section 16-16~~1~~021, Idaho Code.

(5) As soon as practicable following the initial thirty (30) day period from the time the child was delivered to a safe haven by a custodial parent, the department shall petition to terminate the parental rights of the parent who abandoned the child at the safe haven and any unknown parent pursuant to section 16-16~~1~~524, Idaho Code, and in accordance with chapter 20, title 16, Idaho Code.

SECTION 57. That Section 39-8106, Idaho Code, as added by Section 1, Chapter 357, Laws of 2001, be, and the same is hereby amended to read as follows:

39-~~81~~068206. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the child may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of this chapter, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare. The vital statistics unit of the department of health and welfare shall maintain an abandoned child registry for this purpose which shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The department shall provide forms for the purpose of filing a claim of parental rights, 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. Any parent claiming a parental right of an abandoned child, abandoned pursuant to the provisions of this chapter, shall file the form with the vital statistics unit of the department of health and welfare. The form must be filled out completely and provide the name and address for service of the person asserting the parental claim and set forth the approximate date the child was left in a safe haven. The form must be signed by the person claiming the parental right and be witnessed before a notary public. The department shall record the date and time the claim of parental rights is filed with the department. The claim shall be deemed to be duly filed with the department as of the date and time recorded on the claim by the department. To be valid, a claim of parental rights 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. Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this section.

(2) Prior to the time set for hearing on the petition to terminate parental rights filed by the department of health and welfare, and prior to entry of an order terminating parental rights by the court, the department of health and welfare shall obtain and 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, which certificate shall state that a diligent search has been made of the registry of claims of parental rights of abandoned children, abandoned pursuant to this chapter, and shall set forth the results of that search.

(3) If a claim of parental rights is made before an order terminating parental rights is entered by the court, notice pursuant to section 16-2007, Idaho Code, will be required and the court shall hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed sixty (60) days unless otherwise ordered by the court. During that period:

(a) The court shall order genetic testing to establish maternity or paternity, at the expense of the person or persons claiming the parental right.

(b) The department of health and welfare shall conduct an investigation pursuant to section 16-2008, Idaho Code, and in those cases where a guardian ad litem has been appointed, the guardian ad litem shall have all rights, powers and duties as provided for in chapter 16, title 16, Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.

(c) When indicated as a result of the investigation, a shelter care hearing shall be conducted by the court in accordance with section 16-16145, Idaho Code, within forty-eight (48) hours, or at an earlier time if ordered by the court, to determine whether the child should remain in the physical custody of the department or be released to a parent or other third party.

(d) Further proceedings shall be conducted as the court determines appropriate. However, where a claim of parental rights is made before an order terminating parental rights is entered by the court, a parent shall not be found to have neglected or abandoned a child placed in accordance with this chapter solely because the child was left with a safe haven.

(4) If there is no showing that a parent has claimed a parental right to the child, the department of health and welfare 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 parental claims for children abandoned pursuant to the provisions of this chapter and that no parental claim has been made. The certificate shall be filed with the court prior to the entrance of the final order of termination of parental rights.

SECTION 58. That Section 54-4407, Idaho Code, be, and the same is hereby amended to read as follows:

54-4407. PEER ASSISTANCE ENTITY TO REPORT TO BOARD. (1) The legislature recognizes that confidentiality is essential to obtaining maximum disclosure from impaired health care professionals; such disclosure is vital to the success of the peer assistance process. It is also recognized that the public must be protected from health care professionals

who continue to practice in an impaired state.

(2) If the peer assistance entity reasonably believes that a health care professional continues to practice in an impaired state after entering into the peer assistance entity's program and despite the peer assistance entity's recommendations for treatment or modification of practice to remove risk to the public from the effects of the impairment, the peer assistance entity shall immediately notify the appropriate board regarding the impaired health care professional and provide all documentation relevant to substantiate the impaired practice. Similarly, if the licensing board reasonably believes that a health care professional continues to practice in an impaired state, it can require the peer assistance entity to provide all documentation available on the current ability to practice of the individual. Information that does not deal directly with the professional ability to practice will remain privileged.

(3) The board shall have access to financial and administrative records necessary to determine contract compliance and to reports regarding aggregate statistical information; provided, information released pursuant to this subsection shall not contain data which could be used to specifically identify past or present peer assistance program participants.

(4) The board shall have the authority to use any documentation or information supplied to it from a peer assistance entity pursuant to this section or section 54-4406, Idaho Code, as it deems necessary and which is consistent with applicable Idaho law.

(5) Nothing in this chapter shall be deemed to supersede any duty to report under chapter 19, title 6, or section 16-16~~1~~905 or 16-16~~2~~06, Idaho Code.

SECTION 59. That Section 66-317, Idaho Code, be, and the same is hereby amended to read as follows:

66-317. DEFINITIONS. As used in this chapter, terms shall have the following meanings:

(a) "Department director" means the director of the state department of health and welfare.

(b) "Voluntary patient" means an individual admitted to a facility for evaluation pursuant to section 18-211 or 20-520, Idaho Code, or admitted to a facility for treatment pursuant to section 66-318, Idaho Code.

(c) "Involuntary patient" means an individual committed pursuant to section 18-212, 66-329 or 66-1201, Idaho Code, or committed pursuant to section 16-160~~8~~19 or 20-520, Idaho Code, and admitted to a facility for the treatment of minors.

(d) "Licensed physician" means an individual licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

(e) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in

the diagnosis and treatment of mental or mentally related illnesses or conditions.

(f) "Dispositioner" means a designated examiner employed by or under contract with the department of health and welfare and designated by the department director to determine the appropriate location for care and treatment of involuntary patients.

(g) "Facility" means any public or private hospital, sanatorium, institution, mental health center or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate or to provide care or treatment, or both, for the mentally ill.

(h) "Lacks capacity to make informed decisions about treatment" means the inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation of the purpose, nature, and possible significant risks and benefits of treatment.

(i) "Inpatient treatment facility" means a facility in which an individual receives medical and mental treatment for not less than a continuous twenty-four (24) hour period.

(j) "Supervised residential facility" means a facility, other than the individual's home, in which the individual lives and in which there lives, or are otherwise on duty during the times that the individual's presence is expected, persons who are employed to supervise, direct, treat or monitor the individual.

(k) "Likely to injure himself or others" means either:

(1) A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(2) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.

(l) "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility.

(m) "Gravely disabled" means a person who, as the result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety.

(n) "Outpatient commitment" means a court order directing a person to comply with specified mental health treatment requirements, not involving the continuous supervision of a person in an inpatient setting, that are reasonably designed to alleviate or to reduce a person's illness or disability, or to maintain or prevent deterioration of the person's mental or emotional functioning. The specified requirements may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person's condition, or participating in individual or group therapy or in educational or vocational programs. Outpatient commitment may be up to one (1) year.

(o) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. section 15043 and 42 U.S.C. sections 10801 et seq.

SECTION 60. That Section 66-324, Idaho Code, be, and the same is hereby amended to read as follows:

66-324. AUTHORITY TO RECEIVE INVOLUNTARY PATIENTS. The director of any facility is authorized to receive therein for observation, diagnosis, care and treatment any individual committed to the department director pursuant to sections 16-160~~8~~19, 20-520, 18-212, 18-214 or 66-329, or transferred pursuant to section 66-1201, Idaho Code.

Approved April 14, 2005.

CHAPTER 392
(H.B. No. 350)

AN ACT

RELATING TO SCHOOL BONDS; AMENDING SECTION 33-1121, IDAHO CODE, TO PROVIDE A TECHNICAL CORRECTION AND TO REVISE PROCEDURES FOR ADVANCE REFUNDING OF SCHOOL DISTRICT BONDS; AMENDING SECTION 33-1123, IDAHO CODE, TO PROVIDE THAT REFUNDING BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT FIXING THE DATE, DENOMINATIONS, RATE OF INTEREST, THE MATURITY DATES, THE LAST OF WHICH SHALL NOT EXCEED THE TERM OF THE OUTSTANDING BONDS TO BE REFUNDED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1121, Idaho Code, be, and the same is hereby amended to read as follows:

33-1121. ADVANCE REFUNDING BONDS. Whenever any school district has outstanding bonds which may be called and redeemed prior to their maturities, the board of trustees of any such district may issue refunding bonds 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.

Two (2) or more issues of outstanding bonds may be refunded by a single issue of refunding bonds only if the taxable property, upon which taxes are levied to pay the interest and principal payments of the out-

standing bonds, is identical as to each issue proposed to be refunded by a single issue of refunding bonds.

~~Refunding bonds shall be issued in a total amount equal to, or less than, the total amount of the outstanding bonds to be refunded, provided, that all of the outstanding bonds of any issue, or issues, are or will thereby be refunded.~~

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 2. That Section 33-1123, Idaho Code, be, and the same is hereby amended to read as follows:

33-1123. AUTHORIZATION. Refunding bonds shall be authorized by a resolution of the board of trustees fixing the date, denominations, rate of interest, the maturity dates, the last of which shall not ~~be more than fifteen years from the date of said refunding bonds~~ exceed the term of the outstanding bonds to be refunded, and place or places of payment, within or without the state of Idaho. The resolution shall also provide for an annual levy, upon all the property which could be levied upon to retire the outstanding bonds to be refunded, of a tax sufficient to pay the interest and principal payments according to the plan of amortization, and shall further provide for notice, or notices, of redemption of the outstanding bonds at the time and in the manner and form prescribed by law.

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 April 14, 2005.

CHAPTER 393
(H.B. No. 351)

AN ACT

RELATING TO ABORTION; AMENDING SECTION 18-602, IDAHO CODE, TO PROVIDE FURTHER STATUTORY LEGISLATIVE INTENT; AMENDING SECTION 18-604, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 18-605, IDAHO CODE, TO PROVIDE FELONY CRIMINAL PENALTIES TO EVERY PERSON NOT LICENSED OR CERTIFIED TO PROVIDE HEALTH CARE IN IDAHO WHO KNOWINGLY, EXCEPT AS PERMITTED BY LAW, PROVIDES, SUPPLIES OR ADMINISTERS ANY MEDICINE, DRUG OR SUBSTANCES TO ANY WOMAN OR USES OR EMPLOYS ANY INSTRUMENT OR OTHER MEANS WHATEVER UPON ANY THEN-PREGNANT WOMAN WITH INTENT TO CAUSE OR PERFORM AN ABORTION; AMENDING SECTION 18-609A, IDAHO CODE, TO REVISE PROCEDURES FOR REQUIRED CONSENT FOR ABORTIONS FOR MINORS; AMENDING SECTION 18-614, IDAHO CODE, TO REVISE DEFENSES TO PROSECUTION FOR PHYSICIANS FOR CAUSING OR PERFORMING AN ABORTION UPON A MINOR; PROVIDING LEGISLATIVE FINDINGS AND INTENT; PROVIDING SEVERABILITY; AND PROVIDING A CONTINGENT EFFECTIVE DATE.

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

SECTION 1. That Section 18-602, Idaho Code, be, and the same is hereby amended to read as follows:

18-602. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds:

(a) That children have a special place in society that the law should reflect;

(b) That minors too often lack maturity and make choices that do not include consideration of both immediate and long-term consequences;

(c) That the medical, emotional and psychological consequences of abortion and childbirth are serious and can be lasting, particularly when the patient is immature;

(d) That the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of bearing a child or of having an abortion are not necessarily related;

(e) That parents, when aware that their daughter is pregnant or has had an abortion are in the best position to ensure that she receives adequate medical attention during her pregnancy or after her abortion;

(f) That except in rare cases, parents possess knowledge regarding their child which is essential for a physician to exercise the best medical judgment for that child;

(g) That when a minor is faced with the difficulties of an unplanned pregnancy, the best interests of the minor are always served when there is careful consideration of the rights of parents in rearing their child and the unique counsel and nurturing environment that parents can provide;

(h) That informed consent is always necessary for making mature health care decisions.

(2) It is the intent of the legislature in enacting section 18-609A, Idaho Code, to further the following important and compelling state interests recognized by the United States supreme court in:

(a) Protecting minors against their own immaturity;

(b) Preserving the integrity of the family unit;

(c) Defending the authority of parents to direct the rearing of children who are members of their household;

(d) Providing a pregnant minor with the advice and support of a parent during a decisional period;

(e) Providing for proper medical treatment and aftercare when the life or physical health of the pregnant minor is at serious risk in the rare instance of a sudden and unexpected medical emergency.

(3) It is the intent of the legislature of the state of Idaho to enact provisions in this chapter, amending chapter 6, title 18, Idaho Code, that are constitutional. Since the pronouncement of Roe v. Wade, the task of crafting statutes that regulate in a way that is meaningful and yet do not offend the constitution as interpreted by the courts has become extremely difficult. The inability for a state like Idaho to obtain timely review of legislation through the level of the United States supreme court, increases the difficulty of our circumstances. Under those circumstances it is the intent of the Idaho legislature that all of our statutes be interpreted in a constitutional manner and in a manner that will protect the state's interest in protecting our unborn children and their mothers to the fullest extent permissible under the United States constitution and the constitution of the state of Idaho.

SECTION 2. That Section 18-604, Idaho Code, be, and the same is hereby amended to read as follows:

18-604. DEFINITIONS. As used in this act:

(1) "Abortion" means the intentional termination of human pregnancy for purposes other than delivery of a viable birth.

(2) "Cause or perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage upon a woman or minor known to be pregnant.

(3) "Emancipated" means any minor who has been married or is in active military service.

(4) "First trimester of pregnancy" means the first thirteen (13) weeks of a pregnancy.

(~~3~~5) "Hospital" means an acute care, general hospital in this state, licensed as provided in chapter 13, title 39, Idaho Code.

(~~4~~6) "Informed consent" means a voluntary and knowing decision to undergo a specific procedure or treatment. To be voluntary, the decision must be made freely after sufficient time for contemplation and without coercion by any person. To be knowing, the decision must be based on the physician's accurate and substantially complete explanation of each fact pertinent to making the decision. Facts pertinent to making the decision shall include, but not be limited to:

(a) A description of any proposed treatment or procedure;

(b) Any reasonably foreseeable complications and risks to the patient from such procedure, including those related to future reproductive health; and

(c) The manner in which such procedure and its foreseeable complications and risks compare with those of each readily available alternative to such procedure, including childbirth and adoption.

The physician must provide the information in terms which can be understood by the person making the decision, with consideration of age, level of maturity and intellectual capability.

(7) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(8) "Minor" means a woman less than eighteen (18) years of age.

(9) "Parent" means one (1) parent of the unemancipated minor, or a guardian appointed pursuant to chapter 5, title 15, Idaho Code, if the minor has one.

(~~5~~10) "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state as provided in chapter 18, title 54, Idaho Code.

(~~6~~11) "Second trimester of pregnancy" means that portion of a pregnancy following the thirteenth week and preceding the point in time when the fetus becomes viable, and there is hereby created a legal presumption that the second trimester does not end before the commencement of the twenty-fifth week of pregnancy, upon which presumption any licensed physician may proceed in lawfully aborting a patient pursuant to section 18-608, Idaho Code, in which case the same shall be conclusive and unrebuttable in all civil or criminal proceedings.

(~~7~~12) "Third trimester of pregnancy" means that portion of a preg-

nancy from and after the point in time when the fetus becomes viable.

(~~8~~13) Any reference to a viable fetus shall be construed to mean a fetus potentially able to live outside the mother's womb, albeit with artificial aid.

SECTION 3. That Section 18-605, Idaho Code, be, and the same is hereby amended to read as follows:

18-605. UNLAWFUL ABORTIONS -- PROCUREMENT OF -- PENALTY. (1) Every person not licensed or certified to provide health care in Idaho who knowingly, except as permitted by this chapter, provides, supplies or administers any medicine, drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent thereby to cause or perform an abortion shall be guilty of a felony and shall be fined not to exceed five thousand dollars ($5,000) and/or imprisoned in the state prison for not less than two (2) and not more than five (5) years.

(2) Any person licensed or certified to provide health care pursuant to title 54, Idaho Code, and who, except as permitted by the provisions of this chapter, provides, supplies or administers any medicine, drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent to cause or perform an abortion shall:

(a) For the first violation, be subject to professional discipline and be assessed a civil penalty of not less than one thousand dollars ($1,000), payable to the board granting such person's license or certification;

(b) For the second violation, have their license or certification to practice suspended for a period of not less than six (6) months and be assessed a civil penalty of not less than two thousand five hundred dollars ($2,500), payable to the board granting such person's license or certification; and

(c) For each subsequent violation, have their license or certification to practice revoked and be assessed a civil penalty of not less than five thousand dollars ($5,000), payable to the board granting such person's license or certification.

(3) Any person who is licensed or certified to provide health care pursuant to title 54, Idaho Code, and who knowingly violates the provisions of this chapter is guilty of a felony punishable as set forth in subsection (1) of this section, separate from and in addition to the administrative penalties set forth in subsection (2) of this section.

SECTION 4. That Section 18-609A, Idaho Code, be, and the same is hereby amended to read as follows:

18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS.

(1) (a) No person shall ~~knowingly~~ cause or perform an abortion upon a minor unless:

(i) The attending physician has secured the written informed consent of the minor and the written informed consent of the minor's parent; or

(ii) The minor is emancipated and the attending physician has received written proof of emancipation and the minor's written informed consent; or

(iii) The minor has been granted the right of self-consent to the abortion by court order pursuant to paragraph (b) of this subsection and the attending physician has received the minor's written informed consent; or

(iv) A court has found that the causing or performing of the abortion, despite the absence of informed consent of a parent, is in the best interests of the minor and the court has issued an order, pursuant to paragraph (b)(iv)2. of this subsection, granting permission for the causing or performing of the abortion, and the minor is having the abortion willingly, pursuant to paragraph (f) of this subsection; or

(v) A medical emergency exists for the minor so urgent that there is insufficient time for the physician to obtain the informed consent of a parent or a court order and the attending physician certifies such in the pregnant minor's medical records. In so certifying, the attending physician must include the factual circumstances supporting his professional judgment that a medical emergency existed and the grounds for the determination that there was insufficient time to obtain the informed consent of a parent or a court order. Immediately after an abortion pursuant to this paragraph, the physician shall, with due diligence, attempt to provide a parent of an unemancipated minor actual notification of the medical emergency. If the parent cannot be immediately contacted for such actual notification, the physician shall, with due diligence, attempt to provide actual notification to a parent for an eight (8) hour period following the causing or performing of the abortion and shall, until a parent receives such notification, ensure that the minor's postabortion medical needs are met. Notwithstanding the above, a physician shall, within twenty-four (24) hours of causing or performing an abortion pursuant to this paragraph, provide actual notification of the medical emergency by:

1. Conferring with a parent or agent designated by the parent, and providing any additional information needed for the minor's proper care, and, as soon as practicable thereafter, securing the parent's written acknowledgement of receipt of such notification and information; or

2. Providing such actual notification in written form, addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent with written acknowledgement of such receipt by the parent returned to the physician; or

3. Providing such actual notification in written form and mailing it by certified mail, addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee so that a postal employee can only deliver the notice to the authorized addressee.

For the purposes of this section, "actual notification" includes, but is not limited to, a statement that an abortion was caused or performed, a description of the factual circumstances supporting the physician's judgment that the medical emergency existed and a statement of the grounds for the deter-

mination that there was insufficient time to obtain the informed consent of a parent or a court order.

If the physician causing or performing such abortion reasonably believes that the minor is or will be homeless or abandoned so that the parents cannot be readily found or that the minor has suffered or will suffer abuse or neglect such that the minor's ~~physical~~ safety would be jeopardized if a parent were notified that the abortion was caused or performed, or reasonably believes that the best interests of the child require that notification to a parent that the abortion was caused or performed must be withheld, the physician shall, in lieu of notifying a parent as required above, ~~make a report to a law enforcement agency pursuant to section 16-1619, Idaho Code, and a petition shall be filed pursuant to section 16-1605, Idaho Code, which petition shall include a reference to this code section~~ file a petition pursuant to section 16-1605, Idaho Code. Upon adjudication that the minor comes within the purview of chapter 16, title 16, Idaho Code, ~~either on the basis of homelessness or abandonment such that no parent can be found, or on the basis of abuse or neglect such that the minor's physical safety would be in jeopardy if a parent were notified that the abortion was performed, the court shall, as a part of the decree, also~~ or upon a finding that the best interests of the child require that a parent not be notified, the court shall, in a manner which will protect the confidentiality of the minor, order that the physician's duty to so notify a parent is relieved. In any other event, unless the court enters a finding that the best interests of the child require withholding notice to a parent, the court shall order that a parent receive actual notification of the medical emergency and the causing or performing of the abortion.

(b) A proceeding for the right of a minor to self-consent to an abortion pursuant to paragraph (a)(iii) of this subsection or for a court order pursuant to paragraph (a)(iv) of this subsection, may be adjudicated by a court as follows:

(i) The petition shall be filed in the county where the minor resides or ~~the county where the abortion is caused or performed. A minor shall have the legal capacity to make and prosecute a petition and appeal as set out herein. A guardian ad litem may assist the minor in preparing her petition and other documents filed pursuant to this section and may seek appointment as set forth below. A guardian ad litem, whether prospective or appointed, must be an attorney properly licensed in this state. The court shall ensure that the minor is given assistance in filing the petition if the minor so desires a guardian ad litem but no qualified guardian ad litem is available~~ is present. For the limited purposes required to give effect to this paragraph, a minor shall have the legal capacity to make and prosecute a petition and appeal as set out herein. The minor shall be notified that if she has no attorney one will be appointed to assist her in preparing her petition and other documents filed pursuant to this section and represent her interests before the court. A guardian ad litem shall be appointed to seek the best interests of the minor, investigate

the circumstances of the minor and make a report to the court at the hearing which may be submitted into evidence. The guardian ad litem shall not take any action that compromises the confidentiality of the minor regarding her decision to obtain an abortion or the confidentiality of her decision to seek an order from the court.

(ii) The petition shall set forth:

1. The initials of the minor;
2. The age of the minor;
3. The name and address of each parent, guardian, or, if the minor's parents are deceased or the minor is abandoned and no guardian has been appointed, the name and address of any other person standing in loco parentis of the minor;
4. That the minor has been fully informed of the risks and consequences of the abortion procedure to be performed;
5. A claim that the minor is mature, of sound mind and has sufficient intellectual capacity to consent to the abortion for herself; and
6. A claim that, if the court does not grant the minor the right to self-consent to the abortion, the court should find that causing or performing the abortion, despite the absence of the consent of a parent, is in the best interest of the minor and give judicial consent to the abortion~~;-and~~

~~7.--If-so-desired-by-the-minor,-a-request-that--the--court appoint--a--guardian--ad--litem,--or,-alternatively,-if-no guardian-ad-litem-is-requested,-that-the-court-should-consider-whether-appointment-of-a-guardian-ad-litem--for--the minor-is-appropriate.~~

~~The--petition-shall-be-signed-by-the-minor-and,-if-she-has received-assistance-from-a-prospective--guardian--ad--litem--in preparing-the-petition,-by-the-guardian-ad-litem.~~

(iii) A hearing on the merits of the petition shall be held as soon as practicable but in no event later than five (5) days from the filing of the petition. The petition shall be heard by a district judge on the record in a closed session of the court. The court shall appoint a qualified guardian ad litem for the minor if one ~~is-requested-in-the-petition.-If-no-qualified-guardian-ad-litem-is-available,-the-court-may-appoint-some other-person-to-act-in-the-capacity-of-a-guardian-ad-litem,-who shall--act--to-fulfill-the-purposes-of-this-section-and-protect the-confidentiality-and-other-rights-of-the-minor~~ has not been appointed and shall appoint an attorney for the minor if she has no attorney but desires one.

At the hearing, the court shall, after establishing the identity of the minor, hear the report of the guardian ad litem and other evidence relating to the emotional development, maturity, intellect and understanding of the minor; the nature of the abortion procedure to be performed and the reasonably foreseeable complications and risks to the minor from such procedure, including those related to future childbearing; the available alternatives to the abortion; whether her sexual

relations were forced or otherwise in violation of Idaho law other than section 18-6101 1., Idaho Code; the relationship between the minor and her parents; and any other evidence that the court may find relevant in determining whether the minor should be granted the right to self-consent to the abortion or whether the court's consent to causing or performing of the abortion, despite the absence of consent of a parent, is in the best interests of the minor.

(iv) The order shall be entered as soon as practicable, but in no event later than ~~five (5)~~ three (3) days after the conclusion of the hearing. The court shall ensure that the order is served upon the minor immediately after its entry. If, by clear and convincing evidence, the court finds the allegations of the petition to be true and sufficient to establish good cause, the court shall:

1. Find the minor sufficiently mature to decide whether to have the abortion and grant the petition and give the minor the right of self-consent to the abortion, setting forth the grounds for so finding; or

2. Find the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor and give judicial consent to the abortion, setting forth the grounds for so finding.

If the court does not find the allegations of the petition to be true or if good cause does not appear from the evidence heard, the court shall deny the petition, setting forth the grounds on which the petition is denied.

If, in ~~hearing the petition, the court~~ investigating the circumstances of the minor, the guardian ad litem becomes aware of allegations which, if true, would constitute a violation of any section of title 18, Idaho Code, ~~by a person other than the petitioner~~ except section 18-6101 1., Idaho Code, or would bring ~~a child~~ the minor within the purview of chapter 16, title 16, Idaho Code, ~~the court shall order, upon entry of final judgment in the proceeding under this subsection, that an appropriate investigation be initiated or an appropriate information, complaint or petition be filed. Such allegations shall be forwarded by the court with due consideration for the confidentiality of the proceedings under this section~~ on grounds other than a violation of section 18-6101 1., Idaho Code, such allegations shall be reported by the guardian ad litem to law enforcement or to the appropriate prosecuting attorney. If, but for the requirements for proof as set forth in this section, the minor would have been privileged to withhold information given or evidence produced by her, the answers given or evidence produced and any information directly or indirectly derived from her answers may not be used against the minor in any manner in a criminal case, except that she may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering or failing to answer, or in producing or failing to produce, evidence as required by the court.

(c) A notice of appeal from an order issued under the provisions of this subsection shall be filed within ~~two (2) days from the date of~~

~~issuance of the order. The record on appeal shall be completed and the appeal shall be perfected as soon as practicable, but in no event later than five (5) days from the filing of notice of appeal. Because time may be of the essence regarding the performance of the abortion, appeals pursuant to this subsection shall receive expedited appellate review~~ five (5) days from service upon the minor and shall be given expedited consideration and decided as soon as practicable, but in no event more than five (5) days after filing the notice of appeal.

(d) ~~Except for the time for filing a notice of appeal, a court may enlarge the times set forth pursuant to this subsection upon request of the minor or upon good cause appearing, with due consideration for the expedited nature of these proceedings~~ Weekends and holidays shall not be counted in calculating the time limits required by this section.

(e) No filing, appeal or other fees shall be charged for cases or appeals brought pursuant to this section.

(f) If a minor desires an abortion, then she shall be orally informed of, and, if possible, sign the written consent required by this act, in the same manner as an adult person. No abortion shall be caused or performed on any minor against her will, except that an abortion may be performed against the will of a minor pursuant to court order if the abortion is necessary to preserve the life of the minor.

(g) All records contained in court files of judicial proceedings arising under the provisions of this subsection, and subsection (3) of this section, shall be confidential and exempt from disclosure pursuant to section 9-340G, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names of the parties to actions brought pursuant to this section will not be disclosed to the public.

(2) The administrative director of the courts shall compile statistics for each county for each calendar year, accessible to the public, including:

(a) The total number of petitions filed pursuant to paragraph (b) of subsection (1) of this section; and

(b) The number of such petitions filed where a guardian ad litem was requested and the number where a guardian ad litem or other person acting in such capacity was appointed; and

(c) The number of petitions where counsel appeared for the minor without court appointment; and

(d) The number of petitions where counsel was requested by the minor and number where counsel was appointed by the court; and

(e) The number of such petitions for which the right to self-consent was granted; and

(~~d~~f) The number of such petitions for which the court granted its informed consent; and

(~~e~~g) The number of such petitions which were denied; and

(h) The number of such petitions which were withdrawn by the minor; and

(~~f~~i) For categories described in paragraphs (c), (~~d~~f) and (~~e~~g) of this subsection, the number of appeals taken from the court's order in each category; and

(~~g~~j) For each of the categories set out in paragraph (~~f~~i) of this subsection, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed; and

(k) The county of residence of the minor for each petition; and

(l) The time between the filing of the petition and hearing of each petition; and

(m) The time between the hearing and the decision by the court for each petition; and

(n) The time between the decision and filing a notice of appeal for each case, if any; and

(o) The time of extension granted by the court in each case, if any.

(3) In addition to any other cause of action arising from statute or otherwise, any person injured by the causing or performing of an abortion on a minor in violation of any of the requirements of paragraph (a) of subsection (1) of this section, shall have a private right of action to recover all damages sustained as a result of such violation, including reasonable attorney's fees if judgment is rendered in favor of the plaintiff.

(4) Statistical records.

(a) The vital statistics unit of the department of health and welfare shall, in addition to other information required pursuant to section 39-261, Idaho Code, require the complete and accurate reporting of information relevant to each abortion performed upon a minor which shall include, at a minimum, the following:

(i) Whether the abortion was performed following the physician's receipt of:

1. The written informed consent of a parent and the minor; or

2. The written informed consent of an emancipated minor for herself; or

3. The written informed consent of a minor for herself pursuant to a court order granting the minor the right to self-consent; or

4. The written informed consent of a court pursuant to an order which includes a finding that the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor; or

5. The professional judgment of the attending physician that the performance of the abortion was immediately necessary due to a medical emergency and there was insufficient time to obtain consent from a parent or a court order.

(ii) If the abortion was performed due to a medical emergency and without consent from a parent or court order, the diagnosis upon which the attending physician determined that the abortion was immediately necessary due to a medical emergency.

(b) The knowing failure of the attending physician to perform any one (1) or more of the acts required under this subsection is grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject the physician to assessment of a civil penalty of one hundred dollars ($100) for each month or portion thereof that each such failure continues, payable to the center for vital statis-

tics and health policy, but such failure shall not constitute a criminal act.

~~(5)--As used in this section:~~

~~(a)--"Cause or perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage upon a minor known to be pregnant.~~

~~(b)--"Emancipated" means any minor who has been married or is in active military service.~~

~~(c)--(i)--"Medical emergency" means a sudden and unexpected physical condition which, in the reasonable medical judgment of any ordinarily prudent physician acting under the circumstances and conditions then existing, is abnormal and so complicates the medical condition of the pregnant minor as to necessitate the immediate causing or performing of an abortion:~~

~~1.--To prevent her death; or~~

~~2.--Because a delay in causing or performing an abortion will create serious risk of immediate, substantial and irreversible impairment of a major physical bodily function of the patient.~~

~~(ii)--The term "medical emergency" does not include:~~

~~1.--Any physical condition that would be expected to occur in normal pregnancies of women of similar age, physical condition and gestation; or~~

~~2.--Any condition that is predominantly psychological or psychiatric in nature.~~

~~(d)--"Minor" means a woman less than eighteen (18) years of age.~~

~~(e)--"Parent" means one (1) parent of the unemancipated minor, or a guardian appointed pursuant to chapter 5, title 15, Idaho Code, if the minor has one.~~

SECTION 5. That Section 18-614, Idaho Code, be, and the same is hereby amended to read as follows:

18-614. DEFENSES TO PROSECUTION. (1) No physician shall be subject to criminal or administrative liability for causing or performing an abortion upon a minor in violation of any provision of subsection (1)(a) of section 18-609A, Idaho Code, ~~if prior to causing or performing the abortion the physician obtains either positive identification or other documentary evidence from which a reasonable person would have concluded that~~ where the woman seeking the abortion represented that she was not a minor and on that basis the physician causing or performing the abortion did not secure the consent of a parent and where none of the circumstances in paragraph (ii), (iii), (iv) or (v) of subsection (1)(a) of section 18-609A, Idaho Code, exist, if prior to causing or performing the abortion and, after reaching a reasonable conclusion that the woman seeking abortion was not then a minor, the physician obtains either positive identification indicating that the woman seeking the abortion was not then a minor or other documentary evidence from which a reasonable person, after observing the physical appearance of the woman seeking the abortion, would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the identification or evidence, a legible photocopy of such identification or evidence in the physician's office file for the woman. This defense is an affirmative

defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.

(2) ~~If, due to a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, there was insufficient time for the physician to confirm that the woman, due to her age, did not then come within the provisions of subsection (1) of section 18-609A, Idaho Code, the physician shall not be subject to criminal or administrative liability for performing the abortion in violation of subsection (1)(a)(v) of section 18-609A, Idaho Code, if, as soon as possible but in no event longer than twenty-four (24) hours after performing the abortion, the physician obtained positive identification or other documentary evidence from which a reasonable person would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the evidence, a legible photocopy of such evidence in the physician's office file for the woman~~ No physician shall be subject to criminal or administrative liability for causing or performing an abortion upon a minor in violation of subsection (1)(a) of section 18-609A, Idaho Code, where the physician causing or performing the abortion did secure the consent of a person whom he reasonably believed to be a parent of the minor seeking the abortion, but where the person from whom the consent was secured was not, in fact, a parent of the minor, and where none of the circumstances in paragraph (ii), (iii), (iv) or (v) of subsection (1)(a) of section 18-609A, Idaho Code, exist, if prior to causing or performing the abortion and after reaching a reasonable conclusion that the person purporting to be a parent of the minor was a parent of the minor, the physician obtains either positive identification or other documentary evidence from which a reasonable person would have concluded that the person purporting to be the parent, was in fact, a parent of the minor seeking the abortion and if the physician retained, at the time of receiving the identification or evidence, a legible photocopy of such identification or evidence in the physician's office file for the woman upon whom the abortion is caused or performed. This defense is an affirmative defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.

(3) If after performing an abortion under circumstances of a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, the physician, after reasonable inquiry, is unable to determine whether or not the woman is a minor, the physician shall not be subject to criminal, civil or administrative liability for taking any action that would have been required by subsection (1)(a)(v) of section 18-609A, Idaho Code, if the woman had been a minor at the time the abortion was caused or performed.

(4) For purposes of this section, "positive identification" means a lawfully issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military card, bearing the person's photograph and date of birth, the person's valid passport or a certified copy of the person's birth certificate.

SECTION 6. LEGISLATIVE FINDING AND INTENT. In enacting this legislation, the Legislature intends the following:

(1) The first changes to Section 18-609A(1)(a)(v), Idaho Code, are intended to address the concerns of the United States District Court for

the District of Idaho that post-medical emergency notice would be withheld from parents of a minor who had been abused or neglected in the past, but would not be withheld in cases where a minor might be subject to future abuse or neglect. In enacting a separate generic grounds for a physician to withhold notice to a parent if the best interests of the child require, the Legislature intends to give the courts a vehicle to order that post-medical emergency notice be withheld in those circumstances where the United States or state constitutions would so dictate. This, in effect, implements a judicial bypass proceeding specifically for post-medical emergency notice. Removing the requirement that the Child Protective Act petition include a reference to Section 18-609A, Idaho Code, reference in the decree which might give notice that a minor is seeking an abortion requiring the court's Child Protective Act "protect the confidentiality of the minor" is designed to protect the confidentiality of the minor in a manner consistent with the United States and Idaho Constitutions and alleviate concerns expressed by the District Court.

(2) The Legislature finds that every abortion is a serious surgical procedure. Gwendolyn Drummer of Richmond, California (1972), Rita McDowell of Washington, D.C. (1975), Dawn Ravnell of New York (1990), Teresa Causey of Georgia (1988), Erica Richardson of Maryland (1989), Deborah Lozinski of New Jersey (1985), Jane Roe of Manhattan (1988), Jane Roe #1 of Newark, New Jersey (1985), Patricia Chacon of California (1984), Beverly A. Moore of Tennessee (1975), Denise Mentoya of Texas (1988), Latachie Veal of Texas (1991), Laniece Dorsey of California (1986), Glenda Jean Fox of New York (1989), Sophie McCoy of New York (1990), Natalie Meyers of California (1972), Kathy Murphy of California (1973), Deana K. Bell of Illinois (1992), Christella Forte of Michigan (1986) and Jennifer Suddeth of California (1982), are all minors who died from complications from abortions performed in abortion clinics. When an abortion is required due to medical emergency the circumstances are much more serious making it imperative that a minor receive adequate postabortion medical care. The Legislature further finds that proper medical care under those circumstances will rarely, if ever, occur if a parent is not informed that their daughter has not only undergone a serious surgical procedure, but has also suffered a medical emergency so serious that it required the immediate abortion.

Indiana teenager Becky Bell, who died September 16, 1988, was pregnant at seventeen years of age. There is dispute about whether she had undergone an induced abortion or whether she had a miscarriage and whether she died from pneumonia unrelated to the abortion or from infection resulting from an illegal abortion. She was under the care of her parents at her home and was rushed to the hospital when her symptoms became acute. Irrespective of the circumstances and cause of her death, the Legislature finds that her parents were unable to provide care and timely transport to the hospital because they lacked knowledge about her pregnancy and the onset of her infection.

Kathy Denise Murphy was a high school student in Los Angeles who went to Inglewood Hospital for an abortion on August 29, 1973. The abortion was completed but she subsequently developed an infection that made her go to Centinela Valley Community Hospital to receive emergency care. Unfortunately, by that time the infection had ravaged her body. On September 8, 1973, the hospital contacted her mother to let her know that her daughter was gravely ill, but by the time her mother got to the hos-

pital, Kathy was dead. Kathy had not told her mother about the abortion or her subsequent illness. (Los Angeles County Superior Court File #SWC 26793. State of California Death Certificate 73-148112). If for any reason the parents of a minor are not notified of the performance of an abortion upon their minor daughter due to a medical emergency, the presumption must be that the best interests of the minor require that the abortionist must provide medical care until a parent or some other person can care for the minor, and when required due to a medical emergency, it is imperative that a minor receive adequate postabortion medical care.

(3) The changes to Section 18-609A(1)(b)(i), Idaho Code, that require that a guardian ad litem be appointed in every case except where the minor refuses one, are intended to maintain the confidentiality of bypass proceedings while assisting the court with its determination. The guardian ad litem would be required to investigate the circumstances and history of the minor, albeit on an expedited time frame, and would at least have an opportunity to obtain important information about the minor, provide it to the court and do so in a manner that would protect the confidentiality of the minor.

(4) Existing code requires that when the court discovers information during the hearing which would indicate a violation of criminal law, that a report must be made to law enforcement or a prosecutor. It has been removed and the responsibility has now been shifted to the guardian ad litem. Statutory rape pursuant to section 18-6101 1., Idaho Code, has been exempted to remove the concern of the United States District Court that a chilling effect would be caused because every pregnant minor has been a victim of statutory rape. The Legislature intends to cover at least three circumstances: incest, forcible rape and sexual predators. In each of those circumstances a male would have great motivation to obtain an abortion for a minor to make the problem pregnancy go away and cover up his crime. Because the bypass proceedings are closed and totally confidential, there is no other mechanism to uncover these bad actors. In finding the reporting requirement by judges to be unconstitutional, the District Court brought about a cruel result that minors seeking abortion would somehow be stripped of protection under the law when they are the victims of incest, forcible rape or sexual predators when such protection would be available for all other minors in all other circumstances.

(5) The requirement in Section 18-609A(1)(c), Idaho Code, that a notice of appeal be filed within two days of the issuance of the order has been extended to five days from service of the court's order to address the concerns expressed by the District Court. The Legislature intends that this will give minors an adequate time to consider and make their appeal, but that they will likely do so with great haste in light of their desire to obtain the abortion they seek. Between the effective date of the original statute in 2000 and the end of 2004, there were no appeals and only one denied petition, fifteen petitions granted and six petitions withdrawn.

(6) The provisions of existing Section 18-609A(1)(d), Idaho Code, that allow a court to extend time limits set out in the section has been removed. All time frames require action "as soon as practicable." The time between filing of the petition and its hearing can be no more than three days. The time between hearing of the petition and decision by the court can be no more than three days. The time between issuance of the

court's order and the filing of a notice of appeal by the minor is totally the decision of the minor and her counsel, the Legislature intends that such will happen quickly and, when combined with the other provisions of this Section, will occur within constitutionally acceptable time frames. The total time from filing of the petition to decision on appeal should be no more than eighteen days, not counting the time the minor takes to file a notice of appeal. In unusual circumstances where a court would find good cause to grant an extension, the total for all extensions cannot exceed three days so the total time from the filing of the petition to the decision on appeal cannot exceed twenty-one days, not including the time the minor takes to file a notice of appeal.

(7) In 2002, 2003 and 2004, all minors filing petitions appeared with their own counsel. In the event a minor does not have counsel, the court will now appoint one with the changes to Section 18-609A(1)(b)(iii), Idaho Code. The Legislature intends this will ensure that the minor has a guardian ad litem seeking her best interests and an attorney advocating for her before the court.

(8) It is legislative intent that the definition of medical emergency includes circumstances where acute symptoms requiring medical treatment appear suddenly and unexpectedly in a pregnant woman who has concurrently been diagnosed with:

(a) Chronic medical conditions of leukemia, Marfan's syndrome, Mitral Stenosis or pulmonary hypertension;

(b) Severe preeclampsia or HELLP syndrome;

(c) Ectopic or cornual pregnancy;

(d) Inevitable abortion;

(e) Premature rupture of "bag of waters" membrane which has resulted in an acute infection; or

(f) Pregnancy in spite of presence of IUD contraceptive device.

SECTION 7. 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 8. This act shall be in full force and effect when the Attorney General of the State of Idaho drafts a proclamation indicating that the United States Supreme Court has denied a petition for certiorari in the case of Wasden v. Planned Parenthood of Idaho, Supreme Court Docket No. 04-703 and files the proclamation with the Secretary of State and the Secretary of State notifies the Idaho Code Commission of such action.

Approved April 14, 2005.

CHAPTER 394
(H.B. No. 353)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2006; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,813,800	$ 756,400	$24,500		$2,594,700
Federal Grant Fund	231,400	622,500	25,000	$595,700	1,474,600
Miscellaneous Revenue Fund		24,300	25,000	26,000	75,300
TOTAL	$2,045,200	$1,403,200	$74,500	$621,700	$4,144,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-one (41) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 14, 2005.

CHAPTER 395
(H.B. No. 377)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE PROGRAM FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEY; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; ALLOWING TRANSFERS IN EXCESS OF TEN PERCENT BETWEEN CERTAIN PROGRAMS; AND PROVIDING LEGISLATIVE INTENT ON THE USE OF TRAINING FUNDS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Child Welfare Program the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 9,396,300	$2,079,700	$54,800	$ 4,013,400	$15,544,200
Cooperative Welfare Fund (Federal)	11,996,300	6,234,600	9,700	10,790,300	29,030,900
Cooperative Welfare Fund (Dedicated)				1,180,300	1,180,300
TOTAL	$21,392,600	$8,314,300	$64,500	$15,984,000	$45,755,400

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for fiscal year 2005, to be used for the Child Welfare Program for the period July 1, 2005, through June 30, 2006. Of that amount, any unexpended and unencumbered balances originally appropriated for trustee and benefit payments shall be used for foster care payments and adoption assistance payments. The reappropriation shall be computed by the Department of Health and Welfare.

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three hundred ninety-one and twenty-seven hundredths (391.27) full-time equivalent positions for the Child Welfare Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. LIMITATION ON PROGRAM TRANSFERS. Notwithstanding the provisions of Section 67-3511(2), Idaho Code, the Department of Health and Welfare may transfer in excess of ten percent (10%) of program totals between the Child Welfare Program and the Children's Mental Health Program to properly account for their respective activities.

SECTION 6. TRAINING FUNDS. The Department of Health and Welfare shall begin to track training costs for employees and nonemployees separately to accurately identify the costs to prepare employees for the workplace. In addition, the department shall look for opportunities to fund curriculum development with Idaho universities, and review current

tuition assistance programs to determine if they benefit both the employee and the state. It is the intent of the Legislature that the department expand the Child Welfare Academies from existing appropriations for employee development.

Approved April 14, 2005.

CHAPTER 396
(H.B. No. 379)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE COMMUNITY HOSPITALIZATION PROGRAM FOR FISCAL YEAR 2006; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL NORTH PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE STATE HOSPITAL NORTH PROGRAM; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL SOUTH PROGRAM FOR FISCAL YEAR 2006; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE STATE HOSPITAL SOUTH PROGRAM; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the Community Hospitalization Program the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

COMMUNITY HOSPITALIZATION:

FROM:	
General Fund	$1,152,000
FOR:	
Trustee and Benefit Payments	$1,152,000

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the State Hospital North Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$3,991,400	$1,181,300	$ 51,600	$5,224,300
Alcohol Intoxication Treatment Fund	699,800	28,100		727,900
Cooperative Welfare Fund (Dedicated)	143,100			143,100
TOTAL	$4,834,300	$1,209,400	$51,600	$6,095,300

SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than eighty-nine and thirty-nine hundredths (89.39) full-time equivalent positions for the State Hospital North Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. There is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the State Hospital South Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 4,942,200	$1,536,300	$244,400	$ 6,722,900
Mental Hospital Endowment Income Fund	5,225,400	66,000		5,291,400
Cooperative Welfare Fund (Federal)	2,684,200	1,264,000	12,300	3,960,500
Cooperative Welfare Fund (Dedicated)	344,000	131,400	800	476,200
TOTAL	$13,195,800	$2,997,700	$257,500	$16,451,000

SECTION 5. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred fifty-nine and twenty-two hundredths (259.22) full-time equivalent positions for the State Hospital South Program during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 6. 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 7. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated for fiscal year 2005, for the Community Hospitalization,

State Hospital North, and State Hospital South Programs for fiscal year 2005, to be used for nonrecurring expenditures only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare.

Approved April 14, 2005.

CHAPTER 397
(H.B. No. 383)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE PROGRAMS:				
FROM:				
General Fund	$11,138,900	$ 4,685,700		$ 15,824,600
Cooperative Welfare Fund (Federal)	17,254,400	12,015,700		29,270,100
Cooperative Welfare Fund (Dedicated)	55,600	2,265,200		2,320,800
TOTAL	$28,448,900	$18,966,600		$ 47,415,500
II. BENEFIT PAYMENTS:				
FROM:				
General Fund			$18,570,800	$ 18,570,800
Cooperative Welfare Fund (Dedicated)			311,300	311,300
Cooperative Welfare Fund (Federal)			57,852,000	57,852,000
TOTAL			$76,734,100	$ 76,734,100
GRAND TOTAL	$28,448,900	$18,966,600	$76,734,100	$124,149,600

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for fiscal year 2005, to be used for nonrecurring expenditures for the Self-Reliance and Benefit Payments Programs only for the period July 1, 2005, through June 30, 2006. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than five hundred ninety-nine and eighty-one hundredths (599.81) full-time equivalent positions for the Self-Reliance Programs during the period July 1, 2005, through June 30, 2006. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for fiscal year 2007. Any full-time equivalent positions in excess of the Department of Health and Welfare's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

Approved April 14, 2005.

CHAPTER 398
(H.B. No. 395)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2006 TO PUBLIC SCHOOLS, STATE AGENCIES, AND STATE INSTITUTIONS FOR A TEMPORARY SALARY INCREASE FOR EMPLOYEES, CONTINGENT UPON THE ENDING BALANCE OF THE GENERAL FUND; DIRECTING THE DISTRIBUTION OF MONEYS BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; ADOPTING THE GOVERNOR'S RECOMMENDATION FOR SALARY INCREASES; AND PROVIDING AN EFFECTIVE DATE FOR SALARY INCREASES FOR STATE EMPLOYEES AND STATE INSTITUTION EMPLOYEES.

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

SECTION 1. A one-time salary increase for public school employees, state employees and state institution employees will be provided contingent upon the ending balance of the General Fund. If the State Controller certifies to the Secretary of State that the unexpended and unencumbered balance of the General Fund on June 30, 2005, exceeded $124,000,000, then, in addition to any other appropriation provided by law, there is hereby appropriated to public schools, state agencies and state institutions the following amounts to be expended for the designated programs for personnel costs only from the listed funds for the period July 1, 2005, through June 30, 2006:

		TOTAL
(1) PUBLIC SCHOOLS		
EDUCATIONAL SUPPORT PROGRAM/		
DIVISION OF OPERATIONS:		
FROM:		
General Fund		$ 8,234,700
(2) STATE BOARD OF EDUCATION		
AGRICULTURAL RESEARCH AND EXTENSION SERVICE:		
FROM:		
General Fund		$ 229,600
(3) STATE BOARD OF EDUCATION		
COLLEGE AND UNIVERSITIES:		
FROM:		
General Fund		$ 2,376,400
(4) STATE BOARD OF EDUCATION		
COMMUNITY COLLEGE SUPPORT:		
FROM:		
General Fund		$ 139,900
(5) STATE BOARD OF EDUCATION		
IDAHO SCHOOL FOR THE DEAF AND THE BLIND		
I. CAMPUS OPERATIONS:		
FROM:		
General Fund	$ 40,100	
II. OUTREACH SERVICES:		
FROM:		
General Fund	$ 17,700	
TOTAL		$ 57,800
(6) STATE BOARD OF EDUCATION		
OFFICE OF THE STATE BOARD OF EDUCATION:		
FROM:		
General Fund	$ 11,400	
Federal Grant Fund	3,300	
TOTAL		$ 14,700
(7) STATE BOARD OF EDUCATION		
HEALTH EDUCATION PROGRAMS		
I. WOI VETERINARY EDUCATION:		
FROM:		
General Fund	$ 4,500	
II. WWAMI MEDICAL EDUCATION:		
FROM:		
General Fund	$ 6,600	
III. IDEP DENTAL EDUCATION:		
FROM:		
General Fund	$ 2,000	
Unrestricted Current Fund	1,000	
SUBTOTAL	$ 3,000	
IV. FAMILY PRACTICE RESIDENCIES:		
FROM:		
General Fund	$ 4,000	
TOTAL		$ 18,100

		TOTAL
(8) STATE BOARD OF EDUCATION		
IDAHO STATE HISTORICAL SOCIETY		
I. HISTORIC PRESERVATION AND EDUCATION:		
FROM:		
General Fund	$ 11,500	
Miscellaneous Revenue Fund	1,000	
Federal Grant Fund	7,000	
SUBTOTAL	$ 19,500	
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:		
FROM:		
General Fund	$ 1,500	
Miscellaneous Revenue Fund	1,400	
SUBTOTAL	$ 2,900	
TOTAL		$ 22,400
(9) STATE BOARD OF EDUCATION		
STATE LIBRARY BOARD:		
FROM:		
General Fund	$ 15,400	
Federal Grant Fund	2,100	
TOTAL		$ 17,500
(10) STATE BOARD OF EDUCATION		
DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION		
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:		
FROM:		
General Fund	$ 14,500	
Federal Grant Fund	2,900	
SUBTOTAL	$ 17,400	
II. GENERAL PROGRAMS:		
FROM:		
General Fund	$ 1,900	
Federal Grant Fund	1,400	
SUBTOTAL	$ 3,300	
III. POSTSECONDARY PROGRAMS:		
FROM:		
General Fund	$267,400	
IV. CAREER INFORMATION SYSTEM:		
FROM:		
General Fund	$ 1,600	
Miscellaneous Revenue Fund	2,100	
Federal Grant Fund	700	
SUBTOTAL	$ 4,400	
TOTAL		$ 292,500
(11) STATE BOARD OF EDUCATION		
EDUCATIONAL PUBLIC BROADCASTING SYSTEM:		
FROM:		
General Fund	$ 7,900	
Miscellaneous Revenue Fund	7,500	
TOTAL		$ 15,400
(12) STATE BOARD OF EDUCATION		
SPECIAL PROGRAMS		
I. FOREST UTILIZATION RESEARCH:		
FROM:		
General Fund	$ 4,500	

		TOTAL
II. GEOLOGICAL SURVEY:		
FROM:		
General Fund	$ 7,000	
III. MUSEUM OF NATURAL HISTORY:		
FROM:		
General Fund	$ 4,400	
IV. SMALL BUSINESS DEVELOPMENT CENTERS:		
FROM:		
General Fund	$ 2,900	
V. IDAHO COUNCIL FOR ECONOMIC EDUCATION:		
FROM:		
General Fund	$ 500	
VI. TECHHELP:		
FROM:		
General Fund	$ 1,600	
TOTAL		$ 20,900
(13) SUPERINTENDENT OF PUBLIC INSTRUCTION/		
STATE DEPARTMENT OF EDUCATION:		
FROM:		
General Fund	$ 25,400	
Indirect Cost Recovery Fund	3,300	
Driver's Education Fund	1,200	
Public Instruction Fund	3,100	
Miscellaneous Revenue Fund	700	
Federal Grant Fund	27,700	
TOTAL		$ 61,400
(14) STATE BOARD OF EDUCATION		
VOCATIONAL REHABILITATION		
I. COMMUNITY SUPPORTED EMPLOYMENT:		
FROM:		
General Fund	$ 800	
II. VOCATIONAL REHABILITATION:		
FROM:		
General Fund	$ 13,300	
Federal Grant Fund	48,900	
SUBTOTAL	$ 62,200	
TOTAL		$ 63,000
(15) DEPARTMENT OF HEALTH AND WELFARE		
CHILD WELFARE:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$163,300	
Cooperative Welfare Fund (Federal)	28,900	
TOTAL		$ 192,200
(16) DEPARTMENT OF HEALTH AND WELFARE		
SERVICES FOR THE DEVELOPMENTALLY DISABLED		
I. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 46,700	
Cooperative Welfare Fund (Federal)	28,000	
SUBTOTAL	$ 74,700	

		TOTAL
II. IDAHO STATE SCHOOL AND HOSPITAL:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 45,100	
Cooperative Welfare Fund (Federal)	108,300	
SUBTOTAL	$153,400	
TOTAL		$ 228,100
(17) DEPARTMENT OF HEALTH AND WELFARE		
INDEPENDENT COUNCILS		
I. COUNCIL FOR THE DEAF AND HARD OF HEARING:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 1,000	
Cooperative Welfare Fund (Federal)	200	
SUBTOTAL	$ 1,200	
II. DEVELOPMENTAL DISABILITIES COUNCIL:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 3,100	
III. DOMESTIC VIOLENCE COUNCIL:		
FROM:		
Domestic Violence Project Fund	$ 2,700	
TOTAL		$ 7,000
(18) DEPARTMENT OF HEALTH AND WELFARE		
INDIRECT SUPPORT SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 98,800	
Cooperative Welfare Fund (Federal)	80,900	
TOTAL		$ 179,700
(19) DEPARTMENT OF HEALTH AND WELFARE		
MEDICAL ASSISTANCE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 49,800	
Idaho Health Insurance Access Card Fund	700	
Cooperative Welfare Fund (Federal)	90,000	
TOTAL		$ 140,500
(20) DEPARTMENT OF HEALTH AND WELFARE		
PSYCHIATRIC HOSPITALIZATION		
I. STATE HOSPITAL NORTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 42,900	
II. STATE HOSPITAL SOUTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$130,300	
TOTAL		$ 173,200

		TOTAL
(21) DEPARTMENT OF HEALTH AND WELFARE		
MENTAL HEALTH SERVICES		
I. CHILDREN'S MENTAL HEALTH:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 36,900	
Cooperative Welfare Fund (Federal)	6,500	
SUBTOTAL	$ 43,400	
II. COMMUNITY MENTAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 91,200	
Cooperative Welfare Fund (Federal)	15,200	
SUBTOTAL	$106,400	
TOTAL		$ 149,800
(22) DEPARTMENT OF HEALTH AND WELFARE		
PUBLIC HEALTH SERVICES		
I. PHYSICAL HEALTH SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 66,400	
Cooperative Welfare Fund (Federal)	4,200	
SUBTOTAL	$ 70,600	
II. EMERGENCY MEDICAL SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 5,900	
Emergency Medical Services Fund	9,700	
SUBTOTAL	$ 15,600	
III. LABORATORY SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 16,400	
IV. SUBSTANCE ABUSE SERVICES:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$ 6,700	
TOTAL		$ 109,300
(23) DEPARTMENT OF HEALTH AND WELFARE		
DIVISION OF WELFARE		
SELF-RELIANCE PROGRAMS:		
To be deposited into the Cooperative Welfare Fund		
FROM:		
Cooperative Welfare Fund (General)	$121,900	
Cooperative Welfare Fund (Federal)	149,000	
TOTAL		$ 270,900
(24) STATE INDEPENDENT LIVING COUNCIL:		
FROM:		
General Fund		$ 1,200
(25) PUBLIC HEALTH DISTRICTS:		
To be deposited into the Public Health Trust Fund		
FROM:		
Public Health Trust Fund (General)		$ 70,200

		TOTAL
(26) DEPARTMENT OF CORRECTION		
SUPPORT DIVISION		
SUPPORT SERVICES:		
FROM:		
General Fund	$ 40,900	
Parolee Supervision Fund	600	
Miscellaneous Revenue Fund	1,100	
Federal Grant Fund	500	
TOTAL		$ 43,100
(27) DEPARTMENT OF CORRECTION		
OPERATIONS DIVISION		
I. OPERATIONS ADMINISTRATION:		
FROM:		
General Fund	$ 3,800	
II. OFFENDER PROGRAMS:		
FROM:		
General Fund	$ 4,900	
Federal Grant Fund	3,100	
SUBTOTAL	$ 8,000	
III. COMMUNITY SUPERVISION:		
FROM:		
General Fund	$ 88,000	
Parolee Supervision Fund	21,700	
Federal Grant Fund	200	
SUBTOTAL	$109,900	
IV. COMMUNITY WORK CENTERS:		
FROM:		
General Fund	$ 21,800	
Inmate Labor Fund	1,400	
SUBTOTAL	$ 23,200	
V. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
General Fund	$131,700	
Miscellaneous Revenue Fund	2,800	
Federal Grant Fund	500	
SUBTOTAL	$135,000	
VI. IDAHO CORRECTIONAL INSTITUTION - OROFINO:		
FROM:		
General Fund	$ 49,600	
Inmate Labor Fund	4,700	
Miscellaneous Revenue Fund	900	
SUBTOTAL	$ 55,200	
VII. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:		
FROM:		
General Fund	$ 25,600	
Miscellaneous Revenue Fund	200	
SUBTOTAL	$ 25,800	

		TOTAL
VIII. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:		
FROM:		
General Fund	$ 44,200	
Inmate Labor Fund	6,500	
Miscellaneous Revenue Fund	200	
Federal Grant Fund	400	
SUBTOTAL	$ 51,300	
IX. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:		
FROM:		
General Fund	$ 60,700	
Miscellaneous Revenue Fund	700	
SUBTOTAL	$ 61,400	
X. ST. ANTHONY WORK CAMP:		
FROM:		
General Fund	$ 13,000	
Inmate Labor Fund	1,400	
SUBTOTAL	$ 14,400	
XI. POCATELLO WOMEN'S CORRECTIONAL CENTER:		
FROM:		
General Fund	$ 32,400	
Inmate Labor Fund	1,600	
Miscellaneous Revenue Fund	1,600	
SUBTOTAL	$ 35,600	
XII. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:		
FROM:		
General Fund	$ 7,000	
TOTAL		$ 530,600
(28) DEPARTMENT OF CORRECTION		
COMMISSION FOR PARDONS AND PAROLE:		
FROM:		
General Fund		$ 11,300
(29) JUDICIAL BRANCH		
I. SUPREME COURT:		
FROM:		
General Fund	$ 19,900	
Federal Grant Fund	300	
SUBTOTAL	$ 20,200	
II. LAW LIBRARY:		
FROM:		
General Fund	$ 1,900	
III. DISTRICT COURTS:		
FROM:		
General Fund	$ 23,100	
ISTARS Technology Fund	500	
SUBTOTAL	$ 23,600	
IV. COURT OF APPEALS:		
FROM:		
General Fund	$ 4,500	
V. SNAKE RIVER BASIN ADJUDICATION:		
FROM:		
General Fund	$ 5,000	
TOTAL		$ 55,200

		TOTAL
(30) DEPARTMENT OF JUVENILE CORRECTIONS		
I. ADMINISTRATION:		
FROM:		
General Fund	$ 16,500	
Miscellaneous Revenue Fund	500	
SUBTOTAL	$ 17,000	
II. COMMUNITY SERVICES:		
FROM:		
General Fund	$ 5,200	
Juvenile Corrections Fund	400	
Federal Grant Fund	400	
SUBTOTAL	$ 6,000	
III. INSTITUTIONS:		
FROM:		
General Fund	$118,000	
Federal Grant Fund	2,200	
SUBTOTAL	$120,200	
IV. JUVENILE JUSTICE COMMISSION:		
FROM:		
General Fund	$ 700	
Federal Grant Fund	2,400	
SUBTOTAL	$ 3,100	
TOTAL		$ 146,300
(31) IDAHO STATE POLICE		
BRAND INSPECTION:		
FROM:		
State Brand Board Fund		$ 16,100
(32) IDAHO STATE POLICE		
DIVISION OF IDAHO STATE POLICE		
I. DIRECTOR'S OFFICE:		
FROM:		
General Fund	$ 16,000	
Idaho Law Enforcement Fund	700	
Federal Grant Fund	6,200	
SUBTOTAL	$ 22,900	
II. EXECUTIVE PROTECTION:		
FROM:		
General Fund	$ 1,900	
III. INVESTIGATIONS:		
FROM:		
General Fund	$ 43,500	
Drug Donation Fund	1,000	
Federal Grant Fund	1,100	
SUBTOTAL	$ 45,600	
IV. PATROL:		
FROM:		
General Fund	$ 17,200	
Idaho Law Enforcement Fund	119,100	
Hazardous Materials/Waste Enforcement Fund	1,200	
Federal Grant Fund	8,900	
SUBTOTAL	$146,400	

		TOTAL
V. LAW ENFORCEMENT PROGRAMS:		
FROM:		
General Fund	$ 6,400	
Miscellaneous Revenue Fund	600	
Federal Grant Fund	400	
SUBTOTAL	$ 7,400	
VI. SUPPORT SERVICES:		
FROM:		
General Fund	$ 12,400	
Idaho Law Enforcement Fund	3,800	
Idaho Law Enforcement Telecommunications Fund	2,800	
Miscellaneous Revenue Fund	6,300	
SUBTOTAL	$ 25,300	
VII. FORENSIC SERVICES:		
FROM:		
General Fund	$ 17,500	
Miscellaneous Revenue Fund	600	
SUBTOTAL	$ 18,100	
TOTAL		$ 267,600
(33) IDAHO STATE POLICE		
POST ACADEMY		
PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:		
FROM:		
Peace Officers Fund	$ 8,600	
Federal Grant Fund	600	
TOTAL		$ 9,200
(34) IDAHO STATE POLICE		
RACING COMMISSION:		
FROM:		
Idaho State Racing Commission Fund		$ 2,000
(35) DEPARTMENT OF ENVIRONMENTAL QUALITY		
I. ADMINISTRATION AND SUPPORT SERVICES:		
FROM:		
General Fund	$ 14,300	
Air Quality Permitting Fund	1,600	
Public Water System Supervision Fund	2,800	
Department of Environmental Quality Fund (Receipts)	800	
Department of Environmental Quality Fund (Federal)	17,500	
SUBTOTAL	$ 37,000	
II. AIR QUALITY:		
FROM:		
General Fund	$ 15,900	
Air Quality Permitting Fund	9,900	
Department of Environmental Quality Fund (Receipts)	700	
Department of Environmental Quality Fund (Federal)	11,800	
SUBTOTAL	$ 38,300	

		TOTAL
III. WATER QUALITY:		
FROM:		
General Fund	$ 40,100	
Public Water System Supervision Fund	7,700	
Department of Environmental Quality Fund (Receipts)	2,300	
Department of Environmental Quality Fund (Federal)	34,900	
SUBTOTAL	$ 85,000	
IV. WASTE MANAGEMENT AND REMEDIATION:		
FROM:		
General Fund	$ 19,100	
Department of Environmental Quality Fund (Receipts)	3,500	
Department of Environmental Quality Fund (Federal)	23,400	
SUBTOTAL	$ 46,000	
V. IDAHO NATIONAL LABORATORY OVERSIGHT:		
FROM:		
General Fund	$ 1,700	
Department of Environmental Quality Fund (Federal)	8,500	
SUBTOTAL	$ 10,200	
TOTAL		$ 216,500
(36) DEPARTMENT OF FISH AND GAME		
I. ADMINISTRATION:		
FROM:		
Fish and Game Fund (Licenses)	$ 24,500	
Fish and Game Fund (Federal)	24,900	
SUBTOTAL	$ 49,400	
II. ENFORCEMENT:		
FROM:		
Fish and Game Fund (Licenses)	$ 61,200	
Fish and Game Fund (Other)	700	
SUBTOTAL	$ 61,900	
III. FISHERIES:		
FROM:		
Fish and Game Fund (Licenses)	$ 33,300	
Fish and Game Fund (Other)	11,200	
Fish and Game Set-aside Fund (Licenses)	1,300	
Fish and Game Set-aside Fund (Other)	500	
Fish and Game Expendable Trust Fund	700	
Fish and Game Fund (Federal)	91,200	
SUBTOTAL	$138,200	
IV. WILDLIFE:		
FROM:		
Fish and Game Fund (Licenses)	$ 32,000	
Fish and Game Fund (Other)	2,100	
Fish and Game Set-aside Fund (Other)	6,700	
Fish and Game Expendable Trust Fund	3,300	
Nonexpendable Trust Fund	100	
Fish and Game Fund (Federal)	31,600	
SUBTOTAL	$ 75,800	

		TOTAL
V. COMMUNICATIONS:		
FROM:		
Fish and Game Fund (Licenses)	$ 13,000	
Fish and Game Fund (Other)	600	
Fish and Game Set-aside Fund (Other)	1,200	
Fish and Game Fund (Federal)	5,100	
SUBTOTAL	$ 19,900	
VI. ENGINEERING:		
FROM:		
Fish and Game Fund (Licenses)	$ 7,700	
VII. NATURAL RESOURCE POLICY:		
FROM:		
Fish and Game Fund (Licenses)	$ 6,600	
Fish and Game Fund (Other)	1,600	
Fish and Game Set-aside Fund (Other)	1,000	
Fish and Game Fund (Federal)	15,700	
SUBTOTAL	$ 24,900	
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:		
FROM:		
Fish and Game Fund (Licenses)	$ 4,100	
Fish and Game Set-aside Fund (Licenses)	500	
SUBTOTAL	$ 4,600	
TOTAL		$ 382,400
(37) BOARD OF LAND COMMISSIONERS ENDOWMENT FUND INVESTMENT BOARD:		
FROM:		
Miscellaneous Revenue Fund	$ 1,000	
Endowment Administrative Fund	2,200	
TOTAL		$ 3,200
(38) DEPARTMENT OF LANDS		
I. SUPPORT SERVICES:		
FROM:		
General Fund	$ 4,100	
Department of Lands Fund	3,900	
Indirect Cost Recovery Fund	600	
Endowment Administrative Fund	12,900	
SUBTOTAL	$ 21,500	
II. FOREST RESOURCES MANAGEMENT:		
FROM:		
General Fund	$ 9,300	
Department of Lands Fund	18,000	
Endowment Administrative Fund	57,800	
Federal Grant Fund	6,200	
SUBTOTAL	$ 91,300	
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:		
FROM:		
General Fund	$ 6,300	
Department of Lands Fund	200	
Endowment Administrative Fund	16,900	
SUBTOTAL	$ 23,400	

		TOTAL
IV. FOREST AND RANGE FIRE PROTECTION:		
FROM:		
General Fund	$ 7,400	
Department of Lands Fund	21,600	
Fire Suppression Deficiency Fund	1,000	
Federal Grant Fund	6,200	
SUBTOTAL	$ 36,200	
V. SCALING PRACTICES:		
FROM:		
Department of Lands Fund	$ 1,700	
TOTAL		$ 174,100
(39) DEPARTMENT OF PARKS AND RECREATION		
I. MANAGEMENT SERVICES:		
FROM:		
General Fund	$ 14,500	
Indirect Cost Recovery Fund	1,900	
Parks and Recreation Fund	5,800	
Recreational Fuels Fund	2,600	
Parks and Recreation Registration Fund	700	
Federal Grant Fund	600	
SUBTOTAL	$ 26,100	
II. PARK OPERATIONS:		
FROM:		
General Fund	$ 37,300	
Indirect Cost Recovery Fund	200	
Parks and Recreation Fund	13,600	
Recreational Fuels Fund	2,200	
Parks and Recreation Registration Fund	2,600	
Public Recreation Enterprise Fund	1,800	
Parks and Recreation Expendable Trust Fund	1,900	
Federal Grant Fund	5,000	
SUBTOTAL	$ 64,600	
TOTAL		$ 90,700
(40) DEPARTMENT OF PARKS AND RECREATION		
LAVA HOT SPRINGS FOUNDATION:		
FROM:		
Public Recreation Enterprise - Lava Hot Springs Fund		$ 4,900
(41) DEPARTMENT OF WATER RESOURCES		
I. MANAGEMENT AND SUPPORT SERVICES:		
FROM:		
General Fund	$ 7,900	
Indirect Cost Recovery Fund	2,400	
Water Administration Fund	400	
SUBTOTAL	$ 10,700	
II. PLANNING AND TECHNICAL SERVICES:		
FROM:		
General Fund	$ 17,100	
Indirect Cost Recovery Fund	600	
Federal Grant Fund	3,800	
SUBTOTAL	$ 21,500	

		TOTAL
III. ENERGY RESOURCES:		
FROM:		
General Fund	$ 200	
Indirect Cost Recovery Fund	500	
Miscellaneous Revenue Fund	1,100	
Petroleum Price Violation Fund	5,000	
Federal Grant Fund	4,500	
SUBTOTAL	$ 11,300	
IV. SNAKE RIVER BASIN ADJUDICATION:		
FROM:		
General Fund	$ 16,600	
V. WATER MANAGEMENT:		
FROM:		
General Fund	$ 22,200	
Indirect Cost Recovery Fund	400	
Water Administration Fund	7,000	
Miscellaneous Revenue Fund	5,300	
Federal Grant Fund	2,000	
SUBTOTAL	$ 36,900	
TOTAL		$ 97,000
(42) DEPARTMENT OF AGRICULTURE		
I. ADMINISTRATION:		
FROM:		
General Fund	$ 4,300	
Administration and Accounting Services Fund	4,900	
Facilities Maintenance Fund	400	
SUBTOTAL	$ 9,600	
II. ANIMAL INDUSTRIES:		
FROM:		
General Fund	$ 11,500	
Agricultural Fees - Livestock Disease Control Fund	4,600	
Agricultural Fees - Dairy Inspection Fund	6,500	
Agricultural Fees - Egg Inspection Fund	700	
Federal Grant Fund	400	
SUBTOTAL	$ 23,700	
III. AGRICULTURAL RESOURCES:		
FROM:		
General Fund	$ 4,100	
Agricultural Smoke Management Fund	400	
Agricultural Fees - Pesticides Fund	11,200	
Federal Grant Fund	1,800	
SUBTOTAL	$ 17,500	
IV. PLANT INDUSTRIES:		
FROM:		
General Fund	$ 4,100	
Agricultural Inspection Fund	7,600	
Agricultural Fees - Commercial Feed and Fertilizer Fund	5,700	
Agricultural Fees - Organic Food Products Fund	200	
Federal Grant Fund	900	
SUBTOTAL	$ 18,500	

		TOTAL
V. AGRICULTURAL INSPECTIONS:		
FROM:		
General Fund	$ 5,200	
Agricultural Inspection Fund	500	
Weights and Measures Inspection Fund	1,500	
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	10,100	
SUBTOTAL	$ 17,300	
VI. MARKETING AND DEVELOPMENT:		
FROM:		
General Fund	$ 2,800	
Federal Grant Fund	500	
SUBTOTAL	$ 3,300	
VII. SHEEP COMMISSION:		
FROM:		
General Fund	$ 500	
Agricultural Fees - Sheep Industry Regulation Fund	100	
SUBTOTAL	$ 600	
TOTAL		$ 90,500
(43) DEPARTMENT OF AGRICULTURE		
SOIL CONSERVATION COMMISSION:		
FROM:		
General Fund	$ 10,700	
Federal Grant Fund	1,000	
TOTAL		$ 11,700
(44) DEPARTMENT OF COMMERCE AND LABOR		
I. COMMERCE:		
FROM:		
General Fund	$ 18,800	
Tourism and Promotion Fund	4,500	
Miscellaneous Revenue Fund	800	
Federal Grant Fund	3,500	
SUBTOTAL	$ 27,600	
II. IDAHO RURAL PARTNERSHIP:		
FROM:		
Federal Grant Fund	$ 1,000	
III. WAGE AND HOUR:		
FROM:		
General Fund	$ 3,100	
TOTAL		$ 31,700
(45) DEPARTMENT OF FINANCE:		
FROM:		
State Regulatory Fund		$ 24,700
(46) INDUSTRIAL COMMISSION		
I. COMPENSATION:		
FROM:		
Industrial Administration Fund	$ 21,600	
II. REHABILITATION:		
FROM:		
Industrial Administration Fund	$ 22,900	

		TOTAL
III. CRIME VICTIMS COMPENSATION:		
FROM:		
Crime Victims Compensation Fund	$ 4,100	
IV. ADJUDICATION:		
FROM:		
Industrial Administration Fund	$ 9,400	
TOTAL		$ 58,000
(47) DEPARTMENT OF INSURANCE		
I. INSURANCE REGULATION:		
FROM:		
Self-Governing Operating Fund	$ 29,600	
Miscellaneous Revenue Fund	700	
SUBTOTAL	$ 30,300	
II. STATE FIRE MARSHAL:		
FROM:		
Self-Governing State Fire Marshal Fund	$ 5,400	
TOTAL		$ 35,700
(48) PUBLIC UTILITIES COMMISSION		
UTILITIES REGULATION:		
FROM:		
Public Utilities Commission Fund	$ 24,200	
Federal Grant Fund	400	
TOTAL		$ 24,600
(49) SELF-GOVERNING AGENCIES		
DIVISION OF BUILDING SAFETY		
BUILDING SAFETY:		
FROM:		
Electrical Fund	$ 26,900	
Building Fund	6,600	
Plumbing Fund	17,200	
Manufactured Housing Fund	500	
Public Works Contractors Licensing Fund	1,700	
Heating, Ventilation, and Air Conditioning Board Fund	2,800	
Elevator Safety Fund	1,000	
Miscellaneous Revenue/Industrial Safety Fund	5,300	
Miscellaneous Revenue/Logging Fund	2,700	
Building Bureau NCSBCS Fund	100	
Miscellaneous Revenue/Energy Program Fund	900	
Federal Grant Fund	600	
TOTAL		$ 66,300
(50) SELF-GOVERNING AGENCIES		
GENERAL BOARDS		
COMMISSION ON HISPANIC AFFAIRS:		
FROM:		
General Fund	$ 700	
Federal Grant Fund	400	
TOTAL		$ 1,100
(51) SELF-GOVERNING AGENCIES		
STATE LOTTERY:		
FROM:		
State Lottery Fund		$ 21,500

		TOTAL
(52) SELF-GOVERNING AGENCIES		
MEDICAL BOARDS		
I. BOARD OF DENTISTRY:		
FROM:		
State Regulatory Fund	$ 1,500	
II. BOARD OF MEDICINE:		
FROM:		
State Regulatory Fund	$ 5,300	
III. BOARD OF NURSING:		
FROM:		
State Regulatory Fund	$ 3,200	
IV. BOARD OF PHARMACY:		
FROM:		
State Regulatory Fund	$ 5,000	
V. BOARD OF VETERINARY MEDICINE:		
FROM:		
State Regulatory Fund	$ 900	
TOTAL		$ 15,900
(53) SELF-GOVERNING AGENCIES		
REGULATORY BOARDS		
I. BOARD OF ACCOUNTANCY:		
FROM:		
State Regulatory Fund	$ 1,800	
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:		
FROM:		
State Regulatory Fund	$ 1,600	
III. BOARD OF PROFESSIONAL GEOLOGISTS:		
FROM:		
State Regulatory Fund	$ 200	
IV. BUREAU OF OCCUPATIONAL LICENSES:		
FROM:		
State Regulatory Fund	$ 7,400	
V. CERTIFIED SHORTHAND REPORTERS BOARD:		
FROM:		
State Regulatory Fund	$ 100	
VI. OUTFITTERS AND GUIDES LICENSING BOARD:		
FROM:		
State Regulatory Fund	$ 2,200	
VII. REAL ESTATE COMMISSION:		
FROM:		
State Regulatory Fund	$ 5,500	
TOTAL		$ 18,800
(54) SELF-GOVERNING AGENCIES		
OFFICE OF STATE APPELLATE PUBLIC DEFENDER:		
FROM:		
General Fund		$ 9,300
(55) SELF-GOVERNING AGENCIES		
DIVISION OF VETERANS SERVICES:		
FROM:		
General Fund	$ 17,400	
Miscellaneous Revenue Fund	55,600	
Federal Grant Fund	38,000	
TOTAL		$ 111,000

		TOTAL
(56) IDAHO TRANSPORTATION DEPARTMENT		
I. MANAGEMENT AND ADMINISTRATIVE SERVICES:		
FROM:		
State Highway Fund (Dedicated)	$109,900	
State Highway Fund (Billing)	200	
State Highway Fund (Federal)	2,200	
SUBTOTAL	$112,300	
II. PLANNING:		
FROM:		
State Highway Fund (Dedicated)	$ 5,100	
State Highway Fund (Federal)	20,300	
SUBTOTAL	$ 25,400	
III. MOTOR VEHICLES:		
FROM:		
State Highway Fund (Dedicated)	$ 97,000	
IV. HIGHWAY OPERATIONS:		
FROM:		
State Highway Fund (Dedicated)	$542,500	
State Highway Fund (Local)	1,600	
State Highway Fund (Federal)	83,400	
SUBTOTAL	$627,500	
V. AERONAUTICS:		
FROM:		
State Aeronautics Fund (Dedicated)	$ 7,300	
State Aeronautics Fund (Billing)	700	
State Aeronautics Fund (Federal)	100	
SUBTOTAL	$ 8,100	
VI. PUBLIC TRANSPORTATION:		
FROM:		
State Highway Fund (Dedicated)	$ 1,300	
State Highway Fund (Federal)	3,300	
SUBTOTAL	$ 4,600	
TOTAL		$ 874,900
(57) DEPARTMENT OF ADMINISTRATION		
I. ADMINISTRATIVE RULES:		
FROM:		
Administrative Code Fund	$ 1,700	
II. DIRECTOR'S OFFICE:		
FROM:		
General Fund	$ 1,900	
Indirect Cost Recovery Fund	4,100	
Administration and Accounting Services Fund	200	
Industrial Special Indemnity Fund	1,500	
SUBTOTAL	$ 7,700	
III. INFORMATION TECHNOLOGY & COMMUNICATIONS:		
FROM:		
General Fund	$ 5,100	
Indirect Cost Recovery Fund	3,600	
Administration and Accounting Services Fund	14,300	
SUBTOTAL	$ 23,000	

		TOTAL
IV. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:		
FROM:		
General Fund	$ 500	
Administration and Accounting Services Fund	2,700	
SUBTOTAL	$ 3,200	
V. OFFICE OF INSURANCE MANAGEMENT:		
FROM:		
Employee Group Insurance Fund	$ 2,300	
Retained Risk Fund	3,900	
SUBTOTAL	$ 6,200	
VI. PUBLIC WORKS:		
FROM:		
Permanent Building Fund	$ 12,700	
Administration and Accounting Services Fund	11,200	
SUBTOTAL	$ 23,900	
VII. PURCHASING:		
FROM:		
General Fund	$ 6,700	
Administration and Accounting Services Fund	5,400	
Federal Surplus Property Revolving Fund	1,500	
SUBTOTAL	$ 13,600	
TOTAL		$ 79,300
(58) DEPARTMENT OF ADMINISTRATION CAPITOL COMMISSION:		
FROM:		
Capitol Endowment Income Fund		$ 100
(59) ATTORNEY GENERAL STATE LEGAL SERVICES:		
FROM:		
General Fund	$124,200	
Consumer Protection Fund	700	
TOTAL		$ 124,900
(60) STATE CONTROLLER I. ADMINISTRATION:		
FROM:		
General Fund	$ 2,100	
II. STATEWIDE ACCOUNTING:		
FROM:		
General Fund	$ 12,400	
III. STATEWIDE PAYROLL:		
FROM:		
General Fund	$ 10,800	
IV. COMPUTER CENTER:		
FROM:		
Data Processing Services Fund	$ 32,900	
TOTAL		$ 58,200
(61) OFFICE OF THE GOVERNOR COMMISSION ON AGING:		
FROM:		
General Fund	$ 4,500	
Federal Grant Fund	3,700	
TOTAL		$ 8,200

		TOTAL
(62) OFFICE OF THE GOVERNOR		
COMMISSION ON THE ARTS:		
FROM:		
General Fund	$ 2,700	
Federal Grant Fund	2,100	
TOTAL		$ 4,800
(63) OFFICE OF THE GOVERNOR		
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:		
FROM:		
General Fund	$ 5,500	
Federal Grant Fund	10,700	
TOTAL		$ 16,200
(64) OFFICE OF THE GOVERNOR		
DIVISION OF FINANCIAL MANAGEMENT:		
FROM:		
General Fund	$ 16,500	
Miscellaneous Revenue Fund	200	
TOTAL		$ 16,700
(65) EXECUTIVE OFFICE OF THE GOVERNOR		
I. ADMINISTRATION - GOVERNOR'S OFFICE:		
FROM:		
General Fund	$ 8,800	
II. SOCIAL SERVICES:		
FROM:		
Federal Grant Fund	$ 1,300	
TOTAL		$ 10,100
(66) OFFICE OF THE GOVERNOR		
DIVISION OF HUMAN RESOURCES:		
FROM:		
Division of Human Resources Fund		$ 18,500
(67) OFFICE OF THE GOVERNOR		
HUMAN RIGHTS COMMISSION:		
FROM:		
General Fund	$ 4,300	
Federal Grant Fund	900	
TOTAL		$ 5,200
(68) OFFICE OF THE GOVERNOR		
STATE LIQUOR DISPENSARY		
DISPENSARY OPERATIONS:		
FROM:		
Liquor Control Fund		$ 64,000
(69) OFFICE OF THE GOVERNOR		
MILITARY DIVISION		
I. MILITARY MANAGEMENT:		
FROM:		
General Fund	$ 14,300	
Indirect Cost Recovery Fund	500	
SUBTOTAL	$ 14,800	
II. FEDERAL/STATE AGREEMENTS:		
FROM:		
General Fund	$ 5,800	
Federal Grant Fund	74,500	
SUBTOTAL	$ 80,300	

		TOTAL
III. BUREAU OF HOMELAND SECURITY:		
FROM:		
General Fund	$ 10,200	
Federal Grant Fund	11,800	
SUBTOTAL	$ 22,000	
TOTAL		$ 117,100
(70) OFFICE OF THE GOVERNOR		
PUBLIC EMPLOYEE RETIREMENT SYSTEM		
I. RETIREMENT ADMINISTRATION:		
FROM:		
PERSI Administrative Fund	$ 25,000	
II. PORTFOLIO INVESTMENT:		
FROM:		
PERSI Special Fund	$ 3,800	
TOTAL		$ 28,800
(71) OFFICE OF THE GOVERNOR		
OFFICE OF SPECIES CONSERVATION:		
FROM:		
General Fund	$ 4,300	
Miscellaneous Revenue Fund	200	
TOTAL		$ 4,500
(72) OFFICE OF THE GOVERNOR		
WOMEN'S COMMISSION:		
FROM:		
General Fund		$ 200
(73) LEGISLATIVE COUNCIL		
LEGISLATIVE SERVICES OFFICE:		
FROM:		
General Fund	$ 30,800	
Professional Services Fund	8,400	
TOTAL		$ 39,200
(74) LEGISLATIVE COUNCIL		
LEGISLATIVE TECHNOLOGY:		
FROM:		
General Fund		$ 1,200
(75) LEGISLATIVE COUNCIL		
OFFICE OF PERFORMANCE EVALUATIONS:		
FROM:		
General Fund		$ 5,200
(76) LIEUTENANT GOVERNOR		
ADMINISTRATION - LIEUTENANT GOVERNOR:		
FROM:		
General Fund		$ 400
(77) DEPARTMENT OF REVENUE AND TAXATION		
BOARD OF TAX APPEALS:		
FROM:		
General Fund		$ 2,100

		TOTAL
(78) DEPARTMENT OF REVENUE AND TAXATION		
STATE TAX COMMISSION		
I. GENERAL SERVICES:		
FROM:		
General Fund	$ 30,800	
Administration Services for Transportation Fund	3,400	
SUBTOTAL	$ 34,200	
II. AUDIT AND COLLECTIONS:		
FROM:		
General Fund	$ 81,200	
Multistate Tax Compact Fund	10,600	
Administration Services for Transportation Fund	12,100	
Abandoned Property Trust - Unclaimed Property Fund	3,800	
SUBTOTAL	$107,700	
III. REVENUE OPERATIONS:		
FROM:		
General Fund	$ 23,200	
Administration and Accounting Fund	500	
Administration Services for Transportation Fund	4,000	
Abandoned Property Trust - Unclaimed Property Fund	700	
SUBTOTAL	$ 28,400	
IV. COUNTY SUPPORT:		
FROM:		
General Fund	$ 21,300	
TOTAL		$ 191,600
(79) SECRETARY OF STATE		
ADMINISTRATION:		
FROM:		
General Fund		$ 13,700
(80) STATE TREASURER		
TREASURY - ADMINISTRATION:		
FROM:		
General Fund	$ 6,700	
State Treasurer LGIP Fund	1,800	
Treasurer's Office - Professional Services Fund	1,800	
TOTAL		$ 10,300
GRAND TOTAL		$17,352,800

SECTION 2. The Superintendent of Public Instruction shall distribute the moneys appropriated to the Educational Support Program/Division of Operations in Section 1 of this act in a like manner as equalized state discretionary funds, with seventy-five percent (75%) of such funds being distributed by August 31, and twenty-five percent (25%) in the final payment of the fiscal year. Such funds shall be expended on the costs associated with providing a one-time salary bonus to school district employees earning less than $68,625 per year.

SECTION 3. This appropriation provides funding for a one percent (1%) increase in personnel costs for salary increases provided to state

employees based upon performance as recommended in the Governor's report. The Governor's report directs state agencies to manage their personnel cost budget to ensure that salary increases are provided in a manner that best meets the needs of their agency within the resources provided to them.

SECTION 4. Upon certification by the State Controller that the contingency in Section 1 has been met, the effective date of implementation of salary increases for state agency employees and state institution employees shall be the first pay date in October, 2005.

Approved April 14, 2005.

CHAPTER 399
(H.B. No. 396)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2006 TO CERTAIN STATE AGENCIES AND ENTITIES FOR A TEMPORARY SALARY INCREASE FOR JUSTICES, JUDGES AND COMMISSIONERS CONTINGENT UPON THE ENDING FUND BALANCE OF THE GENERAL FUND ON JUNE 30, 2005; PROVIDING FOR IMPLEMENTATION OF TEMPORARY SALARY INCREASES FOR COMMISSIONERS; AMENDING SECTION 1-2222, IDAHO CODE, TO PROVIDE A TEMPORARY SALARY INCREASE FOR MAGISTRATES FOR FISCAL YEAR 2006 UPON CERTAIN CIRCUMSTANCES OCCURRING; AND AMENDING SECTION 59-502, IDAHO CODE, TO PROVIDE A TEMPORARY SALARY INCREASE FOR JUSTICES AND JUDGES FOR FISCAL YEAR 2006 UPON CERTAIN CIRCUMSTANCES OCCURRING.

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

SECTION 1. A one-time temporary salary increase for the Chief Justice of the Supreme Court, Supreme Court justices, Court of Appeals judges, administrative district judges, district judges, magistrate judges, public utilities commissioners, industrial commissioners, and state tax commissioners, will be provided contingent upon the ending balance of the General Fund. If the State Controller certifies to the Secretary of State that the unexpended and unencumbered balance of the General Fund on June 30, 2005, exceeded $124,000,000, then, in addition to any other appropriation provided by law, there is hereby appropriated to the following state agencies and entities the following amounts to be expended for the designated programs for personnel costs only from the listed funds for the period July 1, 2005, through June 30, 2006:

(1) SUPREME COURT

FROM:

General Fund $143,200

(2) PUBLIC UTILITIES COMMISSION

FROM:

Public Utilities Commission Fund $ 3,000

(3) INDUSTRIAL COMMISSION

FROM:

Industrial Administration Fund $ 2,900

(4) DEPARTMENT OF REVENUE AND TAXATION
STATE TAX COMMISSION

FROM:	
General Fund	$ 3,400
TOTAL	$152,500

SECTION 2. Notwithstanding any other provision of law to the contrary, and contingent on the requirements of Section 1 of this act being met, the salaries of the public utilities commissioners, industrial commissioners, and state tax commissioners shall be temporarily increased by one percent (1%) during the period July 1, 2005, through June 30, 2006.

SECTION 3. That Section 1-2222, Idaho Code, be, and the same is hereby amended to read as follows:

1-2222. SALARY SCHEDULE -- ATTORNEY AND NONATTORNEY MAGISTRATES. The salaries of magistrates of the district court shall be as follows:

(1) Beginning on July 1, 1998, the annual salary of each magistrate who is an attorney shall be seven thousand eight hundred eight dollars ($7,808) less than the annual salary of a district judge. Beginning on July 1, 1999, the annual salary of each magistrate who is an attorney shall be seven thousand one hundred six dollars ($7,106) less than the salary of a district judge. Beginning on July 1, 2000, the annual salary of each magistrate who is an attorney shall be six thousand four hundred four dollars ($6,404) less than the salary of a district judge. Beginning on July 1, 2001, the annual salary of each magistrate who is an attorney shall be five thousand seven hundred two dollars ($5,702) less than the salary of a district judge. Beginning July 1, 2002, the annual salary of each magistrate who is an attorney shall be five thousand dollars ($5,000) less than the salary of a district judge.

(2) Beginning July 1, 1998, the following schedule is adopted as the base annual salary schedule for all nonattorney magistrates:

STATE OF IDAHO
BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$46,222
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	41,663
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	37,105
Nonattorney Magistrate Judge IV	under 1,750 cases	31,027

Commencing on July 1, 1999, the amount of the base annual salary for all nonattorney magistrates shall be increased by four percent (4%), and again commencing on July 1, 2000, the amount of the base annual salary for all nonattorney magistrates shall be increased by three and one-half percent (3 1/2%), and again commencing on July 1, 2001, the amount of the base annual salary for all nonattorney magistrates shall be increased by four and one-half percent (4 1/2%), and again commencing on

July 1, 2004, the amount of the base annual salary for all nonattorney magistrates shall be increased by two percent (2%).

(3) The administrative director of the courts shall certify annually the case dispositions of each nonattorney magistrate judge and designate the salary classification for each nonattorney magistrate prior to the beginning of each fiscal year. Any increases or decreases in salary as a result of the provisions of this section shall become effective to coincide with the start of the fiscal year.

(4) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, receive an additional seven hundred fifty dollar ($750) longevity increment added to his base salary for each complete five (5) year period of service as a magistrate. No additional longevity increment shall be awarded after the twentieth year of service. For purposes of this subsection, magistrates who entered state service on January 11, 1971, shall receive credit for years of service as a police court judge, city court judge, justice of the peace, or probate judge.

(5) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, and separate and apart from the longevity increment established by subsection (4) of this section, receive an additional jurisdiction credit of thirty percent (30%) of his base salary upon being granted full statutory jurisdiction by the supreme court.

(6) Regardless of any other provision of this section, beginning July 1, 1997, no nonattorney magistrate shall receive an annual salary of more than fifty-five thousand two hundred seventy-six dollars ($55,276), and beginning July 1, 1998, there shall be no maximum salary limitation on nonattorney magistrate salaries.

(7) All nonattorney magistrates are full-time state officers, are required to be available on a twenty-four (24) hour basis to perform duties incident to their office such as the issuance of search and arrest warrants, and are required to hold such office hours as may be necessary to conduct court business or as required by the supreme court.

(8) For the fiscal year commencing July 1, 2005, and ending June 30, 2006, only, the salaries of magistrates shall be temporarily increased by one percent (1%) if the state controller certifies to the secretary of state that the unexpended and unencumbered balance of the general fund on June 30, 2005, exceeded $124,000,000.

SECTION 4. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. (1) Commencing on July 1, 1998, the salary of the justices of the supreme court shall be ninety thousand seven hundred ninety-one dollars ($90,791) per annum, and the salary of the judges of the district courts shall be eighty-five thousand ninety-five dollars ($85,095) per annum. Commencing on July 1, 1999, the annual salaries of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four percent (4%), and again commencing on July 1, 2000, the annual salary of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by three and one-half percent (3 1/2%), and again commencing on July 1, 2001, the annual salary of the justices of the supreme court and the annual salaries of judges of the district

courts shall be increased by four and one-half percent (4 1/2%), and again commencing on July 1, 2004, the annual salary of the justices of the supreme court and the annual salaries of the judges of the district courts shall be increased by two percent (2%). Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

(2) For the fiscal year commencing July 1, 2005, and ending June 30, 2006, only, the salaries of the chief justice of the supreme court, justices of the supreme court, court of appeals judges, administrative district judges and district judges shall be temporarily increased by one percent (1%) if the state controller certifies to the secretary of state that the unexpended and unencumbered balance of the general fund on June 30, 2005, exceeded $124,000,000.

Approved April 14, 2005.

CHAPTER 400
(H.B. No. 399)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-1763B, IDAHO CODE, AS AMENDED BY SECTION 1, HOUSE BILL NO. 153, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE A LIMITATION RELATING TO THE AMOUNT OF NATURAL CONSUMPTIVE FLOW WATER LEASED BY THE U.S. BUREAU OF RECLAMATION AND TO PROVIDE FOR THE GOVERNOR'S CERTIFICATION THAT CERTAIN BIOLOGICAL OPINIONS HAVE BEEN ISSUED; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 42-1763B, Idaho Code, as amended by Section 1, House Bill No. 153, enacted by the First Regular Session of the Fifty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1763B. INTERIM AUTHORITY FOR RENTAL OF WATER TO AUGMENT FLOWS FOR LISTED ANADROMOUS FISH. (1) Legislative findings and intent regarding rental of water by the U.S. bureau of reclamation in the Snake River basin within Idaho to augment lower Snake River flows for anadromous fish listed under the endangered species act. The legislature finds that the U.S. bureau of reclamation proposes to release up to four hundred twenty-seven thousand (427,000) acre feet of leased or uncontracted water diverted from the Snake River basin to reservoir storage above Lewiston, and to lease or acquire up to sixty thousand (60,000) acre feet of consumptive natural flow water rights diverted and consumed below Milner dam and above Swan Falls dam from the mainstem of the Snake

River to augment flows downstream of Hells Canyon dam during 2005 and through December 31, 2034. The state of Idaho is experiencing serious drought conditions and it is therefore uncertain whether this water will be available for rental for flow augmentation purposes in all years. The legislature further finds that authorization of this legislation is necessary for approval and implementation of the Snake River Water Rights Agreement of 2004 (Mediator's Term Sheet dated April 20, 2004, and submitted on that date to the SRBA Court in SRBA Consolidated Subcase 03-10022 and SRBA Consolidated Subcase 67-13701, with all appendices to the document), as approved, ratified, and confirmed by the 108th Congress of the United States in the "Snake River Water Rights Act of 2004," Pub. L. No. 108-447 (H.R. 4818), 118 Stat. 3431 to 3441 (December 8, 2004). Therefore, the legislature authorizes the U.S. bureau of reclamation to lease storage and natural flow water rights through the state water supply bank and local rental pools under the limited conditions of this section. Any rentals of water for flow augmentation under any other provision of law, including section 42-108A, Idaho Code, shall be subject to the limitations and conditions of this section and the Snake River Water Rights Agreement of 2004.

(2) Rental of water by the U.S. bureau of reclamation.

(a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water released and any natural flow water rights leased or acquired by the bureau within the state of Idaho for listed anadromous fish pursuant to this section must be rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or, in the case of storage water releases, through local rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules.

(b) For any rental of water pursuant to this section, the director shall not be required to determine under section 42-1763, Idaho Code, whether the water supply is sufficient for the purpose for which it is sought, whether the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, whether such use is in the public interest, or whether such use is consistent with the factors enumerated under subsection (3) of section 42-401, Idaho Code.

(3) Conditions on water rentals.

(a) Any water made available under this section shall be obtained only from willing lessors. Any water rented under this section from sources located within a basin having a local rental committee established pursuant to section 42-1765, Idaho Code, or section 42-1765A, Idaho Code, shall be rented pursuant to this section only through the local rental committee.

(b) Storage water made available under this section shall be limited to four hundred twenty-seven thousand (427,000) acre feet annually, and natural consumptive flow water shall be limited to not more than the sixty thousand (60,000) acre feet annually, that accrue to natural flow water rights, acquired or leased by the U.S. bureau of reclamation pursuant to the terms of the Snake River Water Rights Agreement of 2004. These amounts shall be reduced by other water the U.S. bureau of reclamation provides for flow augmentation for listed anadromous fish from the Snake River basin above Lewiston.

(c) In no event shall the release of water under this section cause the water surface of Lake Cascade to be below the elevation required to maintain a storage volume of three hundred thousand (300,000) acre feet, fifty thousand (50,000) acre feet of which is dead space, which is currently estimated to be at an elevation of four thousand eight hundred nine and two-tenths (4,809.2) feet. In addition, the state of Idaho shall pursue a shaping agreement for any uncontracted water released from Lake Cascade under this section.

(d) The rental or use of water under this section shall be in compliance with any permit, applicable water quality rule and regulation or other requirements of the clean water act, shall not cause jeopardy to other species in the state of Idaho, and shall not result in significant adverse impacts to recreational uses of the waters of the Snake River basin in Idaho. The state of Idaho shall not require any restriction, modification, or condition on the diversion, storage, use, discharge of water, or land use to remedy or address violations of water quality standards or other clean water act requirements to the extent the rental or use of water by the U.S. bureau of reclamation under this section causes the violations.

(e) The U.S. bureau of reclamation shall submit a report to the director by January 15 of each year describing the time, volume and purpose of water provided for listed anadromous fish from the Snake River basin above Lewiston during the past year and shall report on the plan for the spring and summer chinook by April 1 and on the plan for the fall chinook by July 15 of each year.

(f) All water rented or used by the U.S. bureau of reclamation under this section from above Hells Canyon dam must be used for power production purposes within the state of Idaho.

(g) All water rented or used by the U.S. bureau of reclamation under this section shall be subject to the terms and conditions contained in the Snake River Flow Component of the Snake River Water Rights Agreement of 2004.

(h) Nothing herein shall entitle the U.S. bureau of reclamation to rent or use water for flow augmentation upon termination or expiration of the permission given in this section.

(4) Nothing in this section shall be construed to alter, or authorize the U.S. bureau of reclamation to modify in any way its existing contractual obligations, or to constitute a finding by the legislature that the rental or use of storage water or natural flow water rights for flow augmentation for listed anadromous fish or any other species is a beneficial use of water, that it is in the public interest, or whether such use injures existing water rights.

(5) This section shall not become effective until the director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be withdrawn, or held in abeyance while this section is in effect, and the governor further ~~issues a proclamation certifying that all conditions for the effectiveness of~~ certifies that the biological opinions required by the Snake River Water Rights Agreement of 2004 have been ~~satisfied~~ issued.

(6) This act shall be null, void and of no force and effect upon the expiration or termination of the Snake River Flow Component of the

Snake River Water Rights Agreement of 2004. In addition, it is the intent of the legislature to consider the repeal of this section in the event that any of the provisions of the Snake River Flow Component of the Snake River Water Rights Agreement of 2004 are modified or declared arbitrary, capricious or otherwise unlawful or set aside by any federal court or there is a finding of jeopardy by any federal court in regard to any biological opinions for projects operated by the U.S. bureau of reclamation in the Snake River basin in Idaho.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved April 14, 2005.

CHAPTER 401
(H.B. No. 401)

AN ACT

RELATING TO THE PURE SEED LAW; AMENDING CHAPTER 4, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-413, IDAHO CODE, TO PROVIDE FOR STATEWIDE JURISDICTION AND PREEMPTION AND TO CLARIFY THAT SPECIFIED RESTRICTIONS SHALL NOT PREEMPT CERTAIN COUNTY OR CITY LOCAL ZONING ORDINANCES.

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

SECTION 1. That Chapter 4, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-413, Idaho Code, and to read as follows:

22-413. STATEWIDE JURISDICTION AND PREEMPTION. (1) This chapter and its provisions are of statewide concern and occupy the whole field of regulation regarding the registration, labeling, sale, storage, transportation, distribution, notification of use, use of seeds, and planting of seeds to the exclusion of all local ordinances or regulations. Except as otherwise specifically provided in this chapter, no ordinance or regulation of any political subdivision may prohibit or in any way attempt to regulate any matter relating to the registration, labeling, sale, storage, transportation, distribution, notification of use, use of seeds, or planting of seeds.

(2) The provisions of subsection (1) of this section shall not preempt county or city local zoning ordinances governing the physical location or siting of seed facilities.

Approved April 14, 2005.

CHAPTER 402
(H.B. No. 336, As Amended)

AN ACT

RELATING TO THE GOVERNOR'S OFFICE OF SPECIES CONSERVATION; AMENDING SECTION 67-818, IDAHO CODE, TO REVISE THE DUTIES OF THE OFFICE, TO REVISE CRITERIA FOR THE DEVELOPMENT OF CERTAIN STATE POLICY AND MANAGEMENT PLANS AND TO CLARIFY THE RELATIONSHIP BETWEEN SPECIFIED PROVISIONS AND CERTAIN WATER RIGHTS; AND DECLARING AN EMERGENCY.

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, ~~and~~ 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, ~~and~~ 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, ~~and~~ 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 ~~to conserve~~ 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 ~~and petitioned~~ species and state management plans shall be developed in consultation with the appropriate state agencies. The appropriate state agency for wildlife ~~biological and species~~ and plant management issues ~~and for plant life biological and species 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 soil 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) 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.

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 15, 2005.

CHAPTER 403
(S.B. No. 1171, As Amended)

AN ACT

RELATING TO FISH AND GAME; REPEALING SECTION 36-114, IDAHO CODE; AMENDING SECTION 36-115, IDAHO CODE, TO PROVIDE FOR THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE TRANSFER OF A SPECIFIED AMOUNT FROM THE BIG GAME SECONDARY DEPREDATION ACCOUNT TO THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF MONEYS FROM THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE THAT THE BIG GAME SECONDARY DEPREDATION ACCOUNT SHALL BE KNOWN AND REFERRED TO AS THE EXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF MONEYS FROM THE EXPENDABLE BIG GAME DEPREDATION FUND, TO REVISE TERMINOLOGY, TO REQUIRE THE STATE CONTROLLER TO MAKE SPECIFIED ANNUAL REPORTS RELATING TO THE INTEREST EARNINGS AND THE AVAILABILITY OF MONEYS IN THE EXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE THAT FUNDS TRANSFERRED FROM THE EXPENDABLE BIG GAME DEPREDATION FUND TO THE FISH AND GAME SET-ASIDE ACCOUNT AND THE ANIMAL DAMAGE CONTROL ACCOUNT SHALL BE SPENT PURSUANT TO RESPECTIVE APPROPRIATIONS FOR THOSE ACCOUNTS AND TO PROVIDE CONDITIONS AND REQUIREMENTS RELATING TO PAYMENTS FOR DAMAGES FROM THE EXPENDABLE BIG GAME DEPREDATION FUND; AMENDING SECTION 36-122, IDAHO CODE, TO PROVIDE FOR PAYMENT OF CERTAIN EXPENSES FROM THE EXPENDABLE BIG GAME DEPREDATION FUND; AMENDING SECTION 36-1108, IDAHO CODE, TO REVISE CODE REFERENCES, TO PROVIDE THAT OWNERS OR LESSEES MUST ALLOW HUNTERS CERTAIN ACCESS TO THEIR PROPERTY OR THROUGH THEIR PROPERTY TO PUBLIC LANDS PROVIDED IT DOES NOT IMPACT ON THEIR OPERATIONS, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND TO PROVIDE FOR THE TRANSFER OF APPROPRIATED AND ENCUMBERED MONEYS AND OUTSTANDING CLAIMS FROM THE BIG GAME PRIMARY DEPREDATION ACCOUNT TO THE EXPENDABLE BIG GAME DEPREDATION FUND.

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

SECTION 1. That Section 36-114, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 36-115, Idaho Code, be, and the same is hereby amended to read as follows:

36-115. NONEXPENDABLE BIG GAME ~~SECONDARY~~ DEPREDATION ~~ACCOUNT~~ FUND -- EXPENDABLE BIG GAME DEPREDATION FUND. (a) The nonexpendable big game depredation fund is hereby established in the state treasury. On July 1, 2005. the state controller shall transfer two million two hundred fifty thousand dollars ($2,250,000) from the big game secondary depredation account, created pursuant to section 3, chapter 370, laws of 1990, to the nonexpendable big game depredation fund. Moneys in the fund shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the fund shall be paid to the expendable big game depredation fund. The principal amount in the fund shall not be appropriated, but only the interest earned on investment of the moneys in the fund shall be available for appropriation to the expendable big game depredation fund.

(b) The big game secondary depredation account ~~is hereby~~ was created in the state treasury pursuant to section 3, chapter 370, laws of 1990, and shall, from the date of enactment of this act, be known and referred to as the expendable big game depredation fund. In addition to payments to the fund from the nonexpendable big game depredation fund as provided for in subsection (a) of this section, the state controller shall annually, as soon after July 1 of each year as practical, transfer into the fund two hundred thousand dollars ($200,000) from the fish and game account. Moneys in the ~~account~~ fund are subject to appropriation for the purposes recited in section 36-122, Idaho Code, section 36-1108(a)3., Idaho Code, section 36-1108(b), Idaho Code, ~~section 36-114(d), Idaho Code,~~ section 36-1109 and section 36-1110, Idaho Code. Moneys in the ~~account~~ fund shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the ~~account~~ fund shall be paid to the ~~account~~ fund. The expendable big game ~~secondary~~ depredation ~~account~~ fund shall be under the administrative direction of the state controller.

~~(b) In addition to any moneys appropriated to the account from other sources, the state controller shall transfer the earned interest not to exceed two hundred fifty thousand dollars ($250,000) from the fish and game account to the big game secondary depredation account each fiscal year until a total of one million two hundred fifty thousand dollars ($1,250,000) has been transferred to the account.~~

(c) ~~The principal amount in the account shall not be appropriated, but only the interest earned on investment of the moneys in the account shall be available for appropriation.~~ The state controller shall annually report to the legislature, the division of financial management, the director of the department of agriculture and the director of the department of fish and game the amount of interest earnings and the availability of ~~such earnings~~ moneys in the expendable big game depredation fund for appropriation. ~~However, should the balance in the account ever~~ At the close of each fiscal year, any unexpended and unencumbered balance that exceeds ~~three million~~ seven hundred fifty thousand dollars ($~~3,00~~750,000), ~~interest earnings that exceed the amount appropriated for any fiscal year~~ shall be transferred as follows: one hundred thousand dollars ($100,000) to the fish and game set-aside account to be earmarked for sportsmen access programs with the remaining amount transferred to the ~~fish and game set aside~~ animal damage control account ~~for habitat rehabilitation~~ established pursuant to section 36-112, Idaho Code. Transferred funds shall be spent pursuant to ~~an~~ the respective appropriations for the set-aside account and the animal damage control account.

(d) Any payment for damages pursuant to sections 36-1108(b), ~~and 36-114(d),~~ Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of fish and game may order not more than one-half (1/2) of the amount of the approved claim that is to be paid from the expendable big game ~~secondary~~ depredation ~~account~~ fund to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the expendable

big game ~~secondary~~ depredation ~~account~~ fund.

(B) The balance of all unpaid approved claim amounts, including claims submitted under the provisions of sections 36-1109 and 36-1110, Idaho Code, shall be accumulated to a total as of June 30. If the balance in the expendable big game ~~secondary~~ depredation ~~account~~ fund appropriation is sufficient to pay the balance of all approved claims, the director shall pay them. If the balance is not sufficient to pay all approved claims, the director shall authorize a proportionate amount to be paid to each claimant. However, claims filed under section 36-1108, Idaho Code, shall have priority and will be paid prior to claims filed under sections 36-1109 and 36-1110, Idaho Code.

(C) The director shall encumber the balance of moneys appropriated from the expendable big game ~~secondary~~ depredation ~~account~~ fund, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from ~~either~~ the expendable big game ~~primary~~ depredation ~~account or--from--the--big-game-secondary-depredation-account~~ fund, but the owner or lessee is required to absorb only a single one thousand dollar ($1,000) deductible per claim~~, whether the claim is paid solely from--the--big--game--primary--depredation account-or-from-both-depredation-accounts~~.

(B) Provided however, that for claims in subsequent ~~and-consecutive~~ years for damage to standing or stored crops in the same location as the first occurrence, the one thousand dollar ($1,000) deductible will be waived ~~as--provided--in--section 36-114(d)(2)(F), Idaho Code~~ if the department failed to prevent property loss following the first occurrence.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(e) Any claim for damages pursuant to section 36-1109, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of fish and game may order that not more than one-half (1/2) of the amount of the approved claim to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the expendable big game ~~secondary~~ depredation ~~account~~ fund.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the

expendable big game **secondary** depredation **account** fund appropriation is sufficient to pay all approved claims, the director shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director shall pay a proportionate share to each claimant. However, claims filed under section 36-1108, Idaho Code, shall have priority and will be paid prior to claims filed under sections 36-1109 and 36-1110, Idaho Code.

(C) The director shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following condition applies: the amount of one thousand dollars ($1,000) must be deducted from each such statement. Provided however, if an owner or caretaker suffers damage to or destruction of livestock in more than one (1) occurrence during the fiscal year, then only one (1) deductible must be subtracted from the claims and the deductible on subsequent claims will be waived. This deductible is a net loss to the owner or caretaker, and will not be compensated for from the expendable big game **secondary** depredation **account** fund.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(f) Any claim for damages to forage pursuant to section 36-1110, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of fish and game may order not more than one-half (1/2) of the amount of the approved claim to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the expendable big game **secondary** depredation **account** fund.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the expendable big game **secondary** depredation **account** fund appropriation is sufficient to pay all approved claims, the director shall pay them. If the balance is not sufficient to pay all approved claims, the director shall authorize a proportionate amount to be paid to each claimant. However, claims filed under section 36-1108, Idaho Code, shall have priority and will be paid prior to claims filed under sections 36-1109 and 36-1110, Idaho Code.

(C) The director shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from the expendable big game ~~secondary~~ depredation ~~account~~ fund.

(B) The total amount of all claims for damages to forage that may be paid from the expendable big game ~~secondary~~ depredation ~~account~~ fund shall not exceed twenty-five percent (25%) of the amount of interest earned from investments of moneys in that ~~account~~ fund in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 3. That Section 36-122, Idaho Code, be, and the same is hereby amended to read as follows:

36-122. ADVISORY COMMITTEE. (a) There is hereby created the fish and game advisory committee. The committee shall consist of twelve (12) members. Six (6) members of the committee shall be appointed by the director of the department of fish and game to generally represent wildlife interests. Six (6) members of the committee shall be appointed by the director of the department of agriculture to generally represent agricultural interests. At the beginning of each odd-numbered year, the director of the department of agriculture shall appoint a chairman from among his appointees, and the director of the department of fish and game shall appoint a vice-chairman from among his appointees. At the beginning of each even-numbered year, the director of the department of fish and game shall appoint a chairman from among his appointees, and the director of the department of agriculture shall appoint a vice-chairman from among his appointees. The committee shall meet at such times as appropriate, but not less frequently than annually.

(b) All members shall be appointed to serve three (3) year terms. Appointments to fill vacancies shall be for the balance of the unexpired term. All members shall be appointed by and serve at the pleasure of the respective directors of the department of agriculture or the department of fish and game. Members shall be compensated as provided in section 59-509(b), Idaho Code, and such expenses shall be paid from the expendable big game ~~primary~~ depredation ~~account~~ fund.

(c) The department of fish and game shall provide staff assistance and support for the committee.

(d) The committee shall have the authority to:

1. Act as a liaison between the commission, landowners, the department of agriculture, the department of fish and game, and wildlife, outdoor recreation and sportsmen's organizations;

2. Act as an independent resource to give advice and recommendations on administration of the programs authorized in sections 36-1108 and 36-1109, Idaho Code.

SECTION 4. That Section 36-1108, Idaho Code, be, and the same is hereby amended to read as follows:

36-1108. CONTROL OF DAMAGE BY ANTELOPE, ELK, DEER OR MOOSE -- COMPENSATION FOR DAMAGES. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from wildlife or to mitigate damages by wildlife. When any antelope, elk, deer or moose is doing damage to or is destroying any property or is about to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and the property of the complainant is being or is likely to be damaged or destroyed by such antelope, elk, deer or moose, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such animals as will stop the damage to said property. Any animals so taken shall remain the property of the state and shall be turned over to the director.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such animals. Any animals so taken shall remain the property of the state and shall be turned over to the director.

3. Make an agreement with the owner or lessee to allow continued use of lands by the animals where damage by them has occurred to stored, growing or matured crops on private property whether owned or leased. This agreement may be transacted only after department attempts to resolve the problem by other means have proven unsuccessful. The agreement made under the provisions of this subsection may provide for financial compensation to the owner or lessee. If made, financial compensation under the provisions of this subsection shall be governed by the provisions of section 36-1145, Idaho Code, and shall not be in addition to any payments for the same crop losses from any other source. Compensation for damages under the provisions of this subsection shall be available for damages done to private lands, whether owned or leased, if the owner or lessee allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season. This provision shall not negate the provisions of section 36-1602, Idaho Code, relating to the necessity of obtaining permission to enter private land. If necessary, the arbitration panel provided for in subsection (b) of this section shall determine the reasonableness of access allowed.

(b) 1. In order to establish eligibility for submission of claims for damages, persons suffering crop damages on privately owned or leased land caused by antelope, elk, deer or moose must:

(A) Notify the department within seventy-two (72) hours of discovery of damage.

(B) Follow up verbal notification with a written notice within ten (10) days of the discovery of damages.

(C) The department shall not be held liable or accountable for any damages occurring more than ten (10) days prior to the initial notification of damage. However, the department may extend the period up to thirty (30) days under exceptional circumstances.

The owner or lessee must have allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season, provided such access does not impact on their operations, or the claim for damages shall be disallowed. Compensation for crop damages[1] claims shall not be in addition to any payments for the same crop losses from any other source and shall not include fence or other types of property damage. While fences and irrigation equipment are not subject to claim for payment, the department is allowed to provide support and assistance, including provision of materials to design, construct, and maintain fences for control of depredation. The notice of damages caused must be in written form, shall be in the form of a claim for damages substantially the same as required by section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be at least one thousand dollars ($1,000). The claim shall not be amended after it is filed, provided however, that a claimant may file an additional claim in the event additional damage occurs subsequent to filing the initial claim. The department shall prepare and make available suitable forms for notice and claim for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be prosecuted for a felony as provided in section 18-2706, Idaho Code. For purposes of this subsection, crop damages shall mean damage to plants grown or stored for profit and exclude ornamental plants.

2. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-1145, Idaho Code, or order it paid as provided in section 36-115, Idaho Code. Failure on the part of the owner or lessee to allow on-site access for inspection and investigation of alleged losses shall void the claim for damages.

3. In the event the owner or lessee and the department fail to agree on the amount of damages within fifteen (15) business days of the written claim, either party may elect to retain the services of an independent certified insurance adjuster licensed in the state of Idaho to view the affected property and determine the amount of damages. In the event the owner or lessee and the department fail to agree on the amount of damages and neither party elects to retain the services of an independent certified insurance adjuster, provisions of subsection (b)4. of this section shall apply. The independent certified adjuster shall complete his review and determination within twenty (20) days from the date he is retained, and will report his determination in writing by certified mail to the department and to the owner or lessee. Neither the owner or lessee, nor the department, shall disturb the affected property prior to review and determination by the independent insurance adjuster. Costs associated with the services of the independent insurance adjuster shall be divided equally between the owner or lessee and the department, subject to reapportionment of the costs by an arbitration panel pur-

suant to the provisions of subsection (b)4. of this section. If the department, or the owner or lessee rejects the determination of the adjuster, they shall notify the other party in writing of the rejection within five (5) business days of receipt of the adjuster's determination. In the event that either party rejects the adjuster's determination, the provisions of subsection (b)4. of this section shall apply.

4. Within five (5) business days of a rejection of an adjuster's determination of damages or failure of the owner or lessee and the department to agree on damages when a certified insurance adjuster is not used, the director must convene an arbitration panel. To convene an arbitration panel, the director must, within five (5) business days, appoint the department's representative and notify the landholder of the appointment. The landholder(s) shall, within the next five (5) business days following such notice from the department, appoint his representative and notify the department of the appointment. Within the next five (5) business days, the department representative and the landholder must mutually appoint the third arbitrator. The arbitration panel shall consist of three (3) members, as follows:

(A) The director of the department of fish and game or his designee;

(B) The owner or his designee, or the lessee or his designee;

(C) One (1) member selected by the two (2) members above.

The panel shall convene within thirty (30) days of the selection of the third arbitrator, and render its decision within fourteen (14) days after the hearing. When convened, the arbitration panel shall have the same authority to make on-site inspections as the department. The owner or lessee shall be responsible for payment of the expenses of his appointee; the director shall pay the expenses of his appointee from the expendable big game ~~primary~~ depredation ~~account~~ fund; and the expenses of the third member shall be a joint responsibility of the owner or lessee, and the department. Provided however, the panel is authorized to review the costs associated with retaining the independent insurance adjuster and to determine whether those costs should instead be borne solely by the owner or lessee, solely by the department, or be apportioned between the owner or lessee and the department. In cases where an independent insurance adjuster was used, the party electing to use the adjuster shall assume the insurance adjuster's determination of damage as their estimate of damage. The panel shall consider the claim submitted by the owner or lessee, and the estimate of damages submitted by the department, and shall select one (1) amount or the other as being the closest to the actual damages sustained by the claimant. The arbitration panel shall report its decision in writing to both the owner or lessee and to the department within ten (10) days of the decision, and the decision of the panel shall be binding on the owner or lessee and the department. The fish and game advisory committee shall develop guidelines to govern arbitration procedures in accordance with chapter 52, title 67, Idaho Code.

(c) Any claim received by the department under the provisions of subsection (b) of this section must be processed by the department within sixty (60) calendar days of receipt. If the claim is approved for payment, payment must be made within forty-five (45) calendar days of

such approval. Any damage claim determination by an independent insurance adjuster pursuant to subsection (b)3. of this section, accepted by the parties, must be paid by the department within forty-five (45) calendar days of the determination. If the claim is arbitrated, the arbitration must be completed within one hundred eighty (180) calendar days of filing the claim for such damages.

SECTION 5. All remaining moneys which have been appropriated to and been encumbered in relation to the Big Game Primary Depredation Account, created pursuant to Section 2, Chapter 370, Laws of 1990, as of July 1, 2005, shall be transferred to the Expendable Big Game Depredation Fund as set forth pursuant to the provisions of Section 36-115, Idaho Code. Any outstanding claims against the Big Game Primary Depredation Account as of July 1, 2005, shall be processed pursuant to the provisions of Section 36-115, Idaho Code.

Approved April 15, 2005.

CHAPTER 404

(H.B. No. 386, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO CIGARETTE TAXES; AMENDING SECTION 63-2506, IDAHO CODE, TO REVISE THE RATE OF THE CIGARETTE TAX EFFECTIVE JULY 1, 2005, AND TO REVISE DISTRIBUTIONS; AMENDING SECTION 63-2509, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO COMPENSATION FOR AFFIXING STAMPS; AND AMENDING SECTION 63-2520, IDAHO CODE, TO REVISE THE DISTRIBUTION FORMULA FOR CERTAIN CIGARETTE TAX MONEYS.

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

SECTION 1. That Section 63-2506, Idaho Code, be, and the same is hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. (1) ~~From June 1, 2003, through June 30~~ On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. 5.1746¢ of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system. 5.1746¢ of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.

(2) ~~On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of twenty-eight cents (28¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Five cents (5¢) of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the public school income fund to be utilized to facilitate~~

~~and provide substance abuse programs in the public school system. Five cents (5¢) of the tax collected per package of twenty (20) cigarettes shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.~~

~~(3)~~ Appropriated funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(~~4~~3) The remaining moneys collected and those moneys not appropriated under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 2. That Section 63-2509, Idaho Code, be, and the same is hereby amended to read as follows:

63-2509. COMPENSATION FOR AFFIXING STAMPS. ~~From June 1, 2003, through June 30, 2005, wholesalers shall be allowed as compensation for affixing stamps, two and sixty one one hundredths percent (2.61%) of the face value of the stamps purchased by them.~~ On and after July 1, 2005, wholesalers shall be allowed as compensation for affixing stamps, ~~five~~ three and three-tenths percent (~~5~~3.3%) of the face value of the stamps purchased by them.

SECTION 3. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the 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 commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) ~~From July 1, 2003, through June 30~~ On and after July 1, 2005, the balance remaining with the state treasurer after deducting the amount described in subsection (a) of this section shall be distributed as follows:

(1) 17.3% of such balance shall be distributed to the permanent building ~~account~~ fund created by section 57-1108, Idaho Code.

(2) 0.4% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.

(3) 1% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.

(4) 21.25% of such balance shall be distributed to the general fund of the state of Idaho for the fiscal year commencing July 1, 2005 through June 30, 2006.

(5) All remaining moneys shall be distributed as follows: For the fiscal year commencing July 1, 2003~~4~~5, and ending June 30, 2004~~5~~6, ~~$23,500,000 shall be distributed to the general fund of the state of Idaho and the remainder~~ all moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code. For fiscal years on and after July 1, 2006, all moneys shall be distributed to the permanent building fund with the moneys to be used for the repair, remodel and restoration of the state capitol building and state facilities pertaining to the capitol restoration until such time as the capitol restoration is adequately funded as certified by the director of the department of administration. Thereafter all moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code. ~~For the fiscal year commencing July 1, 2004, and ending June 30, 2005, all remaining moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code.~~

~~(c) On and after July 1, 2005, the balance remaining with the state treasurer after deducting the amount described in subsection (a) of this section shall be distributed as follows:~~

~~(1) 43.3% of such balance shall be distributed to the permanent building fund created by section 57-1108, Idaho Code.~~

~~(2) 1% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.~~

~~(3) 2.5% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:~~

~~(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;~~

~~(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.~~

~~(4) All remaining moneys shall be distributed to the general fund of the state of Idaho.~~

Approved April 15, 2005.

CHAPTER 405
(H.B. No. 400)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3026A, IDAHO CODE, TO PROVIDE THAT FOR STATE INCOME TAX PURPOSES WHEN INTANGIBLE PROPERTY OWNED BY A LIMITED LIABILITY COMPANY, PARTNERSHIP OR OTHER ENTITY TAXED AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES GENERATES DIVIDENDS, INTEREST, CAPITAL GAINS OR SIMILAR PROFITS OR RETURNS, SUCH INCOME SHALL NOT CONSTITUTE INCOME DERIVED FROM OR RELATED TO SOURCES WITHIN IDAHO, PROVIDED THAT THE BUSINESS ACTIVITY OF SUCH ENTITY IS LIMITED TO THE INVESTMENT IN SECURITIES AND ACTIVITIES INCIDENT THERETO; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

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

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

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

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

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

(iii) The ownership or disposition of any interest in intangible personal property only to the extent that such property is employed in a business, trade, profession or occupation conducted or carried on in this state. Provided however, that interest income from an installment sale of real or tangible personal property shall constitute income from sources within

this state to the extent that the property sold was located within this state. Provided further, that interest income received by a partner or shareholder of a partnership or S corporation from such partnership or S corporation shall constitute income from sources within this state to the extent that the partnership or S corporation is transacting business within this state;

(iv) A resident estate or trust;

(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.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director of the department of finance which generate dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not result in the intangible property being deemed to have a situs outside the domicile of the owner.

(c) Notwithstanding the provisions of subsection (3)(a) of this section, when intangible property owned by a limited liability company, partnership or other entity taxed as a partnership for federal income tax purposes generates dividends, interest, capital gains or similar profits or returns, such income shall not constitute income derived from or related to sources within Idaho, provided that the business activity of such entity is limited to the investment in securities and activities incident thereto.

(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.

(~~d~~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, 2001.

Approved April 15, 2005.

SENATE JOINT MEMORIALS

(S.J.M. No. 102)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, in 1995 and 1996, pursuant to provisions of the Endangered Species Act, the U.S. Fish and Wildlife Service reintroduced wolves into Idaho where they have since been managed by the federal government and the Nez Perce Tribe; and

WHEREAS, since reintroduction, the wolf population has grown steadily along with wolf-related livestock losses and other animal losses; and

WHEREAS, since the reintroduction, the central Idaho recovery area attained its share of the wolf population criteria necessary to initiate the delisting countdown. The delisting of wolves, however, will not occur until the states of Idaho, Montana and Wyoming have all established wolf management plans that are acceptable to the federal government; and

WHEREAS, in 2002, in preparation for delisting, the Idaho Department of Fish and Game, in conjunction with Idaho's Wolf Oversight Committee, completed an Idaho Wolf Conservation and Management Plan to facilitate the transfer of management authority to the state following delisting; and

WHEREAS, Montana has also established a plan. As of the date of this Joint Memorial, however, the state of Wyoming has not established a plan that is acceptable to the federal government; and

WHEREAS, a new federal regulation, "Endangered and Threatened Wildlife and Plants; Regulation for Nonessential Experimental Populations of the Western District Population Segment of the Gray Wolf," Federal Register, Volume 70, Number 4, Pages 1285-1311 (January 6, 2005) (to be codified at 50 C.F.R. part 17), scheduled to go into effect in February of 2005, gives the states of Idaho and Montana more authority to manage wolves inside a federally designated recovery area. The regulation will afford citizens more latitude to kill wolves that are about to attack livestock, including dogs that guard or herd livestock, on private land

or public grazing allotments; and

WHEREAS, federal regulations do not allow citizens to protect their pet dogs or sporting dogs unless the dog is on private land owned or leased by the citizen, even though wolves do not tolerate any other canines in their vicinity, and citizens should be authorized to protect their pet dogs and sporting dogs in the same manner as provided for livestock, including dogs that guard or herd livestock; and

WHEREAS, the Defenders of Wildlife compensates citizens for livestock losses due to confirmed or probable wolf related incidents. In 2003, the Idaho Wolf Depredation Compensation Plan was established for the purpose of compensating citizens for unconfirmed livestock losses with annual funding provided through federal grants. Funding, however, has not always been sufficient to cover all claims; and

WHEREAS, wolf related losses of all dogs constitute the loss of private property and compensation should be provided in the same manner as provided for the loss of livestock. Additional funding is necessary to cover the full payment of all claims for loss of livestock and for the loss of all dogs. The state of Idaho reiterates its expectations relating to the commitment of the federal government to provide the state with funding pursuant to 7 U.S.C. section 426b, provisions of the ESA, all other applicable laws, and the Idaho Wolf Conservation and Management Plan.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge Congress to support broadening the federal regulation, "Endangered and Threatened Wildlife and Plants; Regulation for Nonessential Experimental Populations of the Western District Population Segment of the Gray Wolf," Federal Register, Volume 70, Number 4, Pages 1285-1311 (January 6, 2005) (to be codified at 50 C.F.R. part 17), to authorize citizens to protect their pet dogs and sporting dogs in the same manner as provided for livestock, including dogs that guard or herd livestock.

BE IT FURTHER RESOLVED, that we urge Congress to support the continued funding through federal grants of Idaho's Wolf Depredation Compensation Plan and the broadening of compensation criteria to provide compensation for wolf related losses of all dogs in the same manner as provided for the loss of livestock.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 23, 2005
Adopted by the House March 9, 2005

(S.J.M. No. 103)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, more than 22% of the state of Idaho is land controlled by the U.S. Bureau of Land Management; and

WHEREAS, Bureau of Land Management lands do not pay property taxes to help pay for services on those lands; and

WHEREAS, all county sheriffs in Idaho's forty-four counties must provide law enforcement services on Bureau of Land Management lands ranging from traffic accidents to homicide investigations on a regular and increasing basis; and

WHEREAS, the Bureau of Land Management reimburses twenty-four counties for services at a fraction of the actual cost while the other twenty counties receive no compensation; and

WHEREAS, there is no formula for compiling the reimbursement from the Bureau of Land Management to counties for law enforcement functions; and

WHEREAS, counties in Idaho receive reimbursement at a rate ranging from 0.1 cent per acre up to 88 cents per acre with the average being only 11.6 cents per acre; and

WHEREAS, the Idaho Sheriffs' Association and the Western State Sheriffs' Association have attempted to rectify the issue of additional funding and a standardized formula for distribution of that funding with the Bureau of Land Management for several years, but have not had any rectification of the matter.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the President of the United States and the Congress of the United States to pass legislation establishing an equitable reimbursement formula based upon the number of users or acreage or another equitable basis for the Bureau of Land Management to reimburse counties for local law enforcement services.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 23, 2005
Adopted by the House March 9, 2005

(S.J.M. No. 104)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, more than 38% of the state of Idaho is land controlled by the U.S. Forest Service; and

WHEREAS, Forest Service lands do not pay property taxes to help pay for services on those lands; and

WHEREAS, county sheriffs in the thirty-six of Idaho's forty-four counties must provide law enforcement services on Forest Service lands ranging from traffic accidents to homicide investigations on a regular and increasing basis; and

WHEREAS, the Forest Service reimburses counties for services at a fraction of the actual cost; and

WHEREAS, there is no formula for compiling the reimbursement from the Forest Service to counties for law enforcement functions; and

WHEREAS, counties in Idaho receive reimbursement at a rate ranging from 0.4 cents per acre up to 54 cents per acre with the average being only 1.7 cents per acre; and

WHEREAS, the Idaho Sheriffs' Association and the Western State Sheriffs' Association have attempted to rectify the issue of additional funding and did establish an agreement with the Forest Service, to implement a standardized formula for any new money. However, no new money has been allocated, nor has the standardized formula been achieved.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the President of the United States and the Congress of the United States to pass legislation establishing an equitable reimbursement formula based upon the number of users or acreage or another equitable basis for the Forest Service to reimburse counties for local law enforcement services.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 23, 2005
Adopted by the House March 9, 2005

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Safe Drinking Water Act was originally passed by the United States Congress in 1974 to protect public health by regulating the nation's public drinking water supply and was thereafter amended in 1986 and 1996; and

WHEREAS, the United States Environmental Protection Agency (EPA) is charged with the administration of the Safe Drinking Water Act and is authorized to mandate certain priorities relating to the Act. Individual states play a central role in the implementation of the Act through the use of federal grants provided by the EPA; and

WHEREAS, in addition to the protection of public health, the Safe Drinking Water Act was intended to improve partnerships between the individual states in the administration and implementation of the Act; and

WHEREAS, the Tenth Amendment to the U.S. Constitution provides that certain rights shall be reserved to the states and the individual states are best equipped to determine their respective needs, including those relating to drinking water protection programs; and

WHEREAS, the state of Idaho is rural in nature and many of the drinking water systems within the state are small and cannot afford to comply with nonessential rules and regulations; and

WHEREAS, the drinking water system operators in the state of Idaho desire to protect the waters of Idaho for its citizens and visitors to the best of their abilities; and

WHEREAS, in order to address issues relevant to the state of Idaho and make decisions in the best interest of the most citizens of the state of Idaho, including the financing of infrastructure projects, the state of Idaho must have autonomous management of its drinking water programs, free from federal mandates relating to priorities of the Safe Drinking Water Act; and

WHEREAS, the state of Idaho is best equipped to design and develop innovative, efficient and productive safe drinking water protection and quality programs that will meet the needs of the residents of the state of Idaho within the budget and capacity of the state of Idaho; and

WHEREAS, the state of Idaho has the ability to improve drinking water protection outcomes in a cost-effective manner with statewide implementation driven by citizen needs, directed by the citizens, and under the review of the citizens through the Idaho Department of Environmental Quality.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to enact the appropriate legislation to authorize the individual states to autonomously implement the Safe Drinking Water Act in their respective states, and to provide federal funds to the states via block grants to be used for the implementation of the Act, in accordance with the determination of best use by each state, to protect the public health and environment of the people of each state.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 23, 2005
Adopted by the House March 9, 2005

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the federal death benefit for widows and children of American soldiers killed in combat is inadequate; and

WHEREAS, the Great State of Idaho, through our Governor and citizenry, honor and salute those Idahoans who serve our national defense; and

WHEREAS, the citizens of the Great State of Idaho are forever indebted to those of this country who have died in the name of freedom and human liberties worldwide; and

WHEREAS, the citizens of Idaho have compassion and genuine concern for the surviving children and spouses of Idaho citizens who serve in any component of our nation's armed services and who are killed as a result of direct combat action or combat related injuries;

WHEREAS, since it is impossible to replace a lost loved one and to adequately compensate the surviving family members, at the very least it is our solemn duty to ensure that those surviving family members are provided for in their time of need and to prepare them for future economic realities; and

WHEREAS, the Idaho Legislature has introduced and is considering legislation to provide college scholarships to state institutions for the dependents of fallen soldiers.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request Congress to increase the death benefit for soldiers killed in combat or who die of combat related injuries and request that supplemental programs be considered by Congress and the President to assist the bereaved families of the fallen American soldiers to put the lives of the widow or widower and dependents back together.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to President George W. Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 2, 2005
Adopted by the House March 17, 2005

(S.J.M. No. 108)

A JOINT MEMORIAL
TO THE FAMILY OF MORLEY NELSON RECOGNIZING HIS MANY ACCOMPLISHMENTS AND EXPRESSING CONDOLENCES ON THE OCCASION OF HIS DEATH.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Morley Nelson was born on a ranch in North Dakota in 1916 and died on February 21, 2005, in Boise, Idaho; and

WHEREAS, Morley often recounted the experience when he saw his first falcon plummet from the sky and strike a duck his horse had flushed which began a lifelong fascination with raptors; and

WHEREAS, Morley served in World War II in the 10th Mountain Division of ski troopers and was awarded the Bronze Star, Purple Heart and the Silver Star; and

WHEREAS, Morley was instrumental in the enactment of a 1958 law in Idaho which protected birds of prey and the eventual enactment of federal law protecting birds of prey; and

WHEREAS, in a career which spanned 50 years, Morley Nelson's contributions to preserving raptors was nothing short of staggering, including personally raising and rehabilitating dozens of birds, working with Idaho Power to design safer power lines to prevent the deaths of thousands of birds by electrocution, lecturing, demonstrating and educating tirelessly, working to establish the Snake River Birds of Prey Natural Area and assure its realization, recruiting The Peregrine Fund's World Center for Birds of Prey to Boise, working on more than 30 films about raptors, including Disney films with wide public appeal; and

WHEREAS, Morley was widely recognized for his strength of character, boundless physical stamina and inexhaustible work ethic, contagious passion for the birds of prey he championed to great effect, integrity and individuality which set him apart from others, and zest for nature and the domain of raptors; and

WHEREAS, Morley Nelson was a very genuine and loving human being, husband and father, friend and colleague to all; and

WHEREAS, it is appropriate and fitting that the Idaho Legislature memorialize a man who was singular, unique and special in ways which cannot be captured in words, but which will not be forgotten in the legacy of the raptors he cherished.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize the great works and accomplishments of Morley Nelson and the changes he forged in the way people will think of eagles and hawks forevermore. We extend our sincere condolences to his family, while knowing that his memory will not fade, as he has carved for himself a special place in history.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the family of Morley Nelson.

Adopted by the Senate March 10, 2005
Adopted by the House March 21, 2005

(S.J.M. No. 109)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, bipartisan legislation sponsored by U.S. Senators Larry Craig and Ron Wyden has financially assisted counties with large tracts of federal timber land within the county boundaries; and

WHEREAS, the Craig-Wyden bill set annual payments to counties with large tracts of federal timber land, providing crucial funding for schools and roads and providing millions of dollars for a variety of natural resource conservation projects from weed control to bridge replacements, from thinning forests to trail building; and

WHEREAS, the Craig-Wyden bill's reauthorization is necessary to help rural counties with timber lands plan and maintain their transportation infrastructure; and

WHEREAS, certain counties of Idaho are hamstrung in their ability to collect property taxes by a supermajority of federal land ownership within its boundaries; and

WHEREAS, if the Craig-Wyden bill is not reauthorized, it will have little effect on the federal budget but could devastate timber counties and towns in the Northwest and Idaho; and

WHEREAS, more than fifty percent of the Idaho Panhandle is owned by the federal government and counties cannot collect property tax on federal lands to support schools and to build and maintain roads; and

WHEREAS, it is crucial in tight economic times that the U.S. government meet its obligation to the counties; and

WHEREAS, to some counties the reauthorization of the Craig-Wyden bill could mean the difference between twenty-four miles of two-inch overlays and simply filling potholes, or the difference between fifty miles of chip-sealed roads and plowing snow.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support reauthorization of the "Secure Rural Schools and Community Self-Determination Act" or the Craig-Wyden bill by the Congress of the United States and we request the President of the United States to support this effort.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, George W. Bush, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 18, 2005
Adopted by the House March 31, 2005

(S.J.M. No. 111)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the power to control immigration and naturalization is exclusively reserved to the federal government by the provisions of Section 8, Article I of the United States Constitution, which places the power to set rules for naturalization in the legislative branch; and

WHEREAS, Congress first exercised that power by passing the Act of March 26, 1790, which provided the first rules to be followed by all of the United States in the granting of national citizenship; and

WHEREAS, immigration and naturalization laws have been revised from time to time; and

WHEREAS, immigration was essentially unrestricted until a permanent quota system was created in 1924; and

WHEREAS, the United States allows over 660,000 legal immigrants per year; and

WHEREAS, the Immigration Act of 1990 allows for 480,000 immigrants with family in the U.S.; 140,000 immigrants in needed employment fields; and 40,000 under per-country limits and diversity limits; and

WHEREAS, it is estimated there are ten million illegal aliens in the United States; and

WHEREAS, because U.S. law has decreed that education and emergency medical care cannot be denied even to those who have come here illegally; and

WHEREAS, the cost of medical care, education and incarceration of illegal immigrants is monumental, being estimated at $10 billion a year in California alone; and

WHEREAS, the costs of supporting illegal aliens in this country fall directly on the states, counties and hospitals; and

WHEREAS, that burden has become overwhelming in some areas of the country where high concentrations of illegal aliens have caused some hospitals in border states to declare bankruptcy; and

WHEREAS, current trade and immigration policies are threatening the American standard of living; and

WHEREAS, current immigration policy is fraught with unintended consequences.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request the Congress to comprehensively review current immigration policy, to examine enforcement of that policy, and further, to actively seek reasonable revisions to such policy.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 29, 2005
Adopted by the House April 4, 2005

(S.J.M. No. 112)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, many Idaho companies and producers rely on the navigable waters of the Snake River, Clearwater River and Columbia River to ship wood products, agricultural products and other commodities between Lewiston, Pasco and Portland; and

WHEREAS, cost savings of transportation by barge on the lower Snake River, compared to other transportation methods, are estimated to save Idaho shippers millions of dollars per year; and

WHEREAS, over the course of a number of years, shipping has become more difficult due to drought-related low water levels and sediment accumulation. The U.S. Army Corps of Engineers has determined that in some areas, channel depth has been reduced to only 10 feet; and

WHEREAS, the Corps is mandated by Congress to maintain a 14-foot shipping channel in the river. In previous nondrought years, the Corps has maintained the shipping channel depth by raising the level of water behind the dams; and

WHEREAS, barges typically have a draft of about 13 feet and port managers and shipping companies are now having to light-load barges to avoid getting stuck in shallow areas of the ports and the river; and

WHEREAS, the Corps planned to dredge sediment from the shipping channel to the river edges, which the Corps maintained would not only solve the navigation problems but also improve shallow rearing habitat, but efforts have been forestalled by opponents.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the U.S. Army Corps of Engineers to continue to work toward the development of a long-term sediment management plan.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge Congress to take whatever steps are possible to facilitate dredging of the Snake and Clearwater Rivers by the U.S. Army Corps of Engineers.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 29, 2005
Adopted by the House April 4, 2005

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATIONS REPRESENTING THE STATES OF IDAHO, UTAH AND WYOMING IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the ongoing drought in the state of Idaho has had a profound impact throughout the state, including the area of southeastern Idaho known as the Bear River Basin. Although inadequate, during times of high water such as spring runoff, Bear Lake is the major reservoir for containing flood waters of the Bear River within the Bear River Basin. The effects of drought in the Bear River Basin would be significantly reduced in the event alternative storage sites were available; and

WHEREAS, the Bear River Basin encompasses 7,400 square miles with 2,700 square miles in the state of Idaho. Originating in Utah's Uintah Mountains, the Bear River crosses state boundaries five times, has tributaries in Idaho, Utah and Wyoming, and ultimately discharges into the Great Salt Lake; and

WHEREAS, the Bear River did not naturally divert into Bear Lake. The Utah Sugar Company and the Telluride Power Company first proposed diversion of the Bear River into Bear Lake for water storage in 1898. That project was taken over by Utah Power and Light Company for the purpose of producing hydropower. The project, which included a diversion dam on the Bear River, a canal, and a pumping station was completed in 1918; and

WHEREAS, a multistate compact between the states of Idaho, Utah and Wyoming, known as the Bear River Compact, was entered into in 1958 and amended in 1980. The Compact governs the operation of the Bear River and, for management purposes, the Compact divides the river into three segments. The three segments are known as the Upper Division, located in Utah and Wyoming, the Central Division, located in Wyoming and Idaho, and the Lower Division, located in Idaho and Utah. The Bear River Commission, made up of three members from each of the Compact states, a chairman appointed by the President of the United States, and an engineer/manager, manages the day-to-day operation of the river; and

WHEREAS, as a result of two lawsuits against Utah Power and Light Company during the 1970's, which claimed damage to crops due to flooding along the Bear River, the power company is under court order to keep the Bear River within its banks. Based on the court order, in the event the irrigation season ends with Bear Lake above 5,918 feet in elevation, water is released downstream to make room in Bear Lake for the spring runoff; and

WHEREAS, since the 1970's, millions of acre feet of water have been released to provide capacity for flood control. Releases carry the river as well as the surface water removed from Bear Lake downstream to the Great Salt Lake where the principal beneficiary is the Great Salt Lake ecosystem. The most recent releases were in 1997, 1998 and 1999; and

WHEREAS, lowering the elevation of Bear Lake in the Lower Division for flood control also impacts water users in the Upper and Central Divisions. Under the Compact, Woodruff Narrows Reservoir located in the Upper Division is not allowed to fill whenever the elevation of Bear Lake is below 5,911 feet above sea level, affecting both ground and surface water in that area. In addition, when Woodruff Narrows Reservoir is not full, no water is available for irrigation in a ten mile stretch of river in the Central Division leaving irrigators in that area without water for their crops; and

WHEREAS, dredging has been necessary to provide water for irrigation due to low lake levels; and

WHEREAS, studies to date have shown that use of Bear Lake for flood control has resulted in tons of suspended sediment solids to be deposited in the lake during the spring runoff. This is highly detrimental to the ecosystem. Increases in algae blooms on Bear Lake due to nitrates being carried in have been documented; and

WHEREAS, in the event the water had not been released in the interest of flood control, it is likely that Bear Lake would now be full or nearly full. In that event, it is probable that there would be no need to pump water out of Bear Lake for irrigation because there would be enough capacity to allow the water to flow out by gravity, there would be no need to dredge in Bear Lake in that the elevation of the lake would be high enough to make dredging unnecessary, and an elevation above 5,911 feet would allow upstream storage at the Woodruff Narrows Reservoir; and

WHEREAS, extremely low levels in Bear Lake could cause a water emergency to be declared by the state of Utah. The declaration would lead to closer scrutiny of the natural flow rights administered under the interstate accounting system. The lack of adequate storage water to supplement natural flow could result in the curtailment of rights in Idaho; and

WHEREAS, if alternate storage sites were available, several hundred thousand acre feet of water would still be in Bear Lake to mitigate the effects of the drought. Pursuant to the Bear River Compact, Idaho is entitled to store approximately 125,000 acre feet of water annually and Utah about 390,000 acre feet annually. Provided adequate storage, this water, which is usually available during the spring runoff, could be stored to prevent any flooding of the Bear River. The water could then be used for irrigation, domestic and commercial development and recreation. A reservoir above Bear Lake would allow chemicals to be neutralized and suspended solids to settle out that are now entering Bear Lake. Alternative storage sites would provide for the conservation, preserva-

tion and best utilization of the water to which the state is entitled. This storage is desperately needed to allow residential, commercial and municipal development in the Bear River drainage without reducing irrigated agricultural lands; and

WHEREAS, flood control above Bear Lake would make possible a policy that Bear Lake would be the first to fill and the last to empty. This would provide more water for irrigation, minimize fluctuations of lake levels, improve spawning habitat for Bear Lake cutthroat trout, provide boat-launching capability at Idaho state parks, and allow the filling of Woodruff Narrows Reservoir. Flood control above Bear Lake would greatly benefit the economy of all three states in the Bear River drainage; and

WHEREAS, the United States Army Corps of Engineers is the federal agency responsible for flood control. The Corps has indicated a willingness to conduct a feasibility study of possible water storage sites upstream from Bear Lake which could be used for flood control of the Bear River. Costs of the study could range from $600,000 to $2,000,000 depending on the areas the study would include. The study will require an equal match of federal and nonfederal funds. However, with congressional approval, past local expenditures may be used as the local match; and

WHEREAS, past local expenditures that have been made include $174,000 by the state of Wyoming for the Cokeville Reservoir project on Smith's Fork, $350,000 by the state of Wyoming for the Bear River Plan and over $2,000,000 of state funds from Idaho, Wyoming, and Utah through the Bear River Commission for stream gaging; and

WHEREAS, concerned citizens of the Bear River drainage, including the Bear Lake County Commission, the Bear Lake Regional Commission, Bear Lake Watch, Inc., and Love Bear Lake, Inc., are asking for Congressional approval to recognize past expenditures as the local match to make the Corps of Engineers feasibility study possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge the Congress of the United States and our Idaho delegation, as well as the Utah and Wyoming delegations in Congress, to support, work to pass and vote for legislation that will authorize and fund a feasibility study by the United States Corps of Engineers relating to the possibilities, benefits and costs of providing flood control above Bear Lake.

BE IT FURTHER RESOLVED that we urge Congress to allow and approve past local expenditures, equivalent to fifty percent of the total cost of the study, as the required local match and that local expenditures to be allowed and approved include $174,000 by the state of Wyoming for the Cokeville Reservoir project on Smith's Fork, $350,000 by the state of Wyoming for the Bear River Plan and $2,000,000 of state funds from Idaho, Wyoming, and Utah for stream gaging.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegations representing the states of Idaho, Utah and Wyoming in the Congress of the United States.

Adopted by the House February 10, 2005
Adopted by the Senate February 22, 2005

(H.J.M. No. 2)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on October 15, 1990, Congress passed the Radiation Exposure Compensation Act (RECA), which provides for compassionate payments to persons or to their beneficiaries who developed diseases as a result of exposure to radiation from U.S. atmospheric nuclear weapons testing; and

WHEREAS, currently, a study is underway by the National Academy of Sciences and a report will be filed with Congress to address the adequacy of the initial geographic coverage provided in RECA; and

WHEREAS, compelling anecdotal evidence has been accumulated at public meetings and in written reports, to indicate the impact of atmospheric testing on the downwinder populations in Idaho; and

WHEREAS, preliminary evidence suggests that scientific documentation being gathered and assessed for inclusion in the report will find that risk factors present in Idaho equal or exceed the factors present in areas previously included in RECA coverage; and

WHEREAS, members of Idaho's congressional delegation have worked and will continue to press for responsible legislative action to address the claims of Idahoans based upon radiation exposure; and

WHEREAS, it is appropriate that members of the Idaho Legislature, speaking on behalf of the citizens of the state, express support for the efforts of Idaho's congressional delegation in their representation of downwinders in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we anticipate the findings of the National Academy of Sciences will verify the impact of testing on residents of Idaho, and we conclude that it is appropriate to compensate these downwinders in the same manner and to the same extent as those individuals previously compensated for similar exposures. We urge the members of Idaho's congressional delegation to continue in their endeavors on behalf of Idaho's citizens.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 16, 2005
Adopted by the Senate February 22, 2005

(H.J.M. No. 3)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, proton therapy is a form of radiation that provides numerous advantages over conventional radiation and surgery in the treatment of many cancers, some of which are not otherwise treatable, based on the fact that it is noninvasive, painless and is performed on an outpatient basis. Protons provide a superior dose to tumors while sparing surrounding healthy tissue, eliminating painful and life-impairing side effects associated with surgery and other forms of radiation therapy; and

WHEREAS, Loma Linda University Medical Center located in California, established a research team in 1987 for the purpose of developing and designing the world's first proton beam treatment center. The research team, now known as "Optivus," maintains exclusive worldwide rights to the Loma Linda University Medical Center proprietary technology. In over a decade, the facility at Loma Linda University Medical Center has delivered in excess of 200,000 patient treatments and the market for the technology continues to grow; and

WHEREAS, the concept of a proton accelerator cancer treatment facility in Pocatello, Idaho, has been under study for a number of years; and

WHEREAS, the Portneuf Medical Center, located in Pocatello, Idaho, is in the process of an eight year expansion program with a goal of providing a single hospital facility with many services decentralized into five centers of excellence; and

WHEREAS, Optivus has the expertise to deliver, operate and maintain a proton beam treatment center, with FDA cleared technology, capable of delivering a high volume of patient treatments each year in Pocatello, Idaho; and

WHEREAS, the City of Pocatello, Bannock County, Portneuf Medical Center, and other available resources have agreed, in concept, to provide support for the development of the Pocatello Proton Accelerator Cancer Treatment Facility at or near the campus of the new Portneuf Medical Center; and

WHEREAS, the facility will provide state-of-the-art medical services to the communities of rural Idaho, the surrounding states, and other national and international markets for cancer treatment, as well as create numerous high paying jobs and generate significant revenue for the local economy; and

WHEREAS, funding for the facility will be secured through a combination of funds, debt and/or financial guarantees.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the President and Congress to vigorously support the campaign to develop the Pocatello Proton Accelerator Cancer Treatment Facility in Pocatello, Idaho, sup-

porting the concept that rural health is a significant issue affecting every rural community in this nation and that the development of the Pocatello Proton Accelerator Cancer Treatment Facility will not only provide much needed medical care to rural Idaho, but also to surrounding states and other national and international markets.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 22, 2005
Adopted by the Senate March 2, 2005

(H.J.M. No. 4)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho is very diversified in its agricultural production; and

WHEREAS, in January 2002, the federal government announced that it was initiating negotiations on a free trade agreement involving the countries of El Salvador, Guatemala, Honduras and Nicaragua. These negotiations concluded in December 2003. Negotiations with Costa Rica and the Dominican Republic were subsequently completed and are now included in the agreement. Congress must now decide whether to ratify the Central America Free Trade Agreement (CAFTA); and

WHEREAS, the federal government is also negotiating the Free Trade Area of the Americas (FTAA) agreement; and

WHEREAS, both CAFTA and the FTAA would allow these foreign countries to export commodities to the United States, harming Idaho agricultural industry in the process; and

WHEREAS, the agricultural producers of the United States cannot be expected to compete with these foreign countries under free trade agreements due to the labor practices, lack of environmental regulations and subsidized agricultural production of these foreign countries; and

WHEREAS, sugar is an import-sensitive commodity which will be negatively impacted by CAFTA. Idaho is our nation's second-largest producer of sugarbeets and a recent University of Idaho study concludes that the demise of the sugar industry in the state would also have a serious impact on market prices relating to other Idaho crops such as potatoes and onions which would be grown in place of sugarbeets; and

WHEREAS, the CAFTA nations already enjoy preferential, duty-free access into the United States market for 311,700 metric tons of sugar.

The United States is presently the world's fourth-largest net importer of sugar under existing trade agreements and its sugar market is already oversupplied, resulting in our region's sugarbeet processing company recently announcing the temporary closure of one of its factories due to the existing low sugar marketing allocations for United States producers; and

WHEREAS, the United States International Trade Commission in August 2004, concluded that the Central American Free Trade Agreement would actually increase the U.S. trade deficit with the region by $100 million a year to $2.4 billion a year; and

WHEREAS, concerns over free trade agreements face the agricultural industry at a time when the domestic consumption of United States agricultural products is declining, forcing domestic producers out of business; and

WHEREAS, the state of Idaho stands to lose thousands of jobs and millions of dollars if these free trade agreements are implemented, potentially devastating the state's agricultural industry, moving production into other supply-sensitive crops, and severely harming the state's economy as a whole; and

WHEREAS, the economic impact of any trade agreement must be recognized and considered to maintain viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade; and

WHEREAS, the provisions of CAFTA and the FTAA should be renegotiated to limit exports from foreign countries to a needs-based access, allowing the United States agricultural policy to properly function and fairly treat agricultural producers in the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that in negotiating any national trade agreements, the federal government is urged to recognize the economic impact of such trade agreements on the states and consider those impacts in order to maintain the viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade.

BE IT FURTHER RESOLVED that the federal government is urged to renegotiate the provisions of CAFTA and the FTAA to limit exports from the involved foreign countries to fairly protect agricultural producers in the United States.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 11, 2005
Adopted by the Senate March 21, 2005

(H.J.M. No. 6)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE UNITED STATES SECRETARY OF ENERGY, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, at the direction of the United States Government, through its Department of Energy, a new national laboratory "Idaho National Laboratory" was, on February 1, 2005, formed from the former Argonne National Laboratory-West and Idaho National Engineering and Environmental Laboratory; and

WHEREAS, the United States Department of Energy's stated vision for the new Idaho National Laboratory is to: enhance the Nation's energy security by becoming the preeminent, internationally recognized nuclear energy research, development and demonstration laboratory within ten years; establish itself as a major center for national security technology development and demonstration; be a multiprogram, national laboratory with world-class nuclear capabilities; and foster new academic, industry, government and international collaborations to produce the investment, programs and expertise that assure this vision is realized; and

WHEREAS, the Idaho National Laboratory is considered an essential partner alongside Idaho state government, Idaho's universities and industry in carrying out the state's Science and Technology Strategic Plan and building on Idaho's key industry strengths in energy and power, imaging, new materials and nanotechnology, and ag/biotechnology; and

WHEREAS, the state of Idaho has for fifty-six years willingly and dutifully hosted Department of Energy, Energy Research and Development Administration and Atomic Energy Commission operations at the current Idaho National Laboratory site; and

WHEREAS, both the federal government and the state of Idaho have significant financial interests in seeing operations at the Idaho National Laboratory succeed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we herewith respectfully petition the President and Congress to pledge continued support and provide sufficient long-term funding to assure execution of the federal government's stated, public record vision for the Idaho National Laboratory, allowing this great institution to advance, as it is uniquely able to, our collective interests in strengthened energy, national and economic security for these United States.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of Energy of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 10, 2005
Adopted by the Senate March 23, 2005

(H.J.M. No. 7)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, citizens of the state of Idaho strongly believe that basic civil liberties must be preserved and protected, even as we seek to guard against terrorist and other threats to the national security; and

WHEREAS, there are some principles of our democracy which are so fundamental to the rights of citizenship that they must be preserved to guard the very liberties we seek to protect; and

WHEREAS, legislation known as the SAFE Act has been introduced in the Congress of the United States to adopt amendments to the Patriot Act which would address some of the most problematic provisions of that Act; and

WHEREAS, the SAFE Act amends the Patriot Act to modify the provisions regarding the roving wiretaps to require that the identity of the target be given and that the suspect be present during the time when surveillance is conducted; and

WHEREAS, the SAFE Act revises provisions governing search warrants to limit the circumstances when the delay of notice may be exercised and to require reports to the Congress when delays of notice are used; and

WHEREAS, the SAFE Act requires specific and articulable facts be given before business records are subject to investigation by the Federal Bureau of Investigation; and

WHEREAS, the SAFE Act provides that libraries shall not be treated as communication providers subject to providing information and transaction records of the library patrons; and

WHEREAS, it is appropriate that the Legislature of the State of Idaho, on behalf of the citizens of Idaho, express support of the efforts of Senator Larry Craig to adopt the SAFE Act, and encourage the full support of the Idaho congressional delegation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature

endorses the efforts to amend the Patriot Act to assure that it works well to protect our security, but that it does not unnecessarily compromise essential liberties of the citizens of the United States. We urge the congressional delegation representing the State of Idaho in the Congress of the United States to support legislation introduced by Senator Larry Craig, known as the SAFE Act.

Adopted by the House March 14, 2005
Adopted by the Senate March 25, 2005

(H.J.M. No. 8)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho has abundant supplies of agricultural residues and the Legislature would like to signal that this industry is welcome in the state of Idaho; and

WHEREAS, there is a high probability that Idaho will be the site of the first commercial cellulose ethanol production in the United States; and

WHEREAS, the national blending bias would favor a locally produced product and support rural farmers in this state; and

WHEREAS, a national blending bias would create another option for the petroleum industry; and

WHEREAS, both cellulose and corn ethanol offer the same benefits for local air quality when blended with gasoline; and

WHEREAS, this national blending bias reflects the improved carbon dioxide reduction qualities of the production of cellulose ethanol over the production of corn based ethanol; and

WHEREAS, supporting breakthroughs such as cellulose ethanol technology could help the United States to minimize its dependence on foreign oil; and

WHEREAS, it is appropriate that the Idaho Legislature endorse the language presented in the Congress of the United States regarding a blending bias for ethanol derived from agricultural byproducts (biomass), specifically the language contained in Section 1501 of Senate Bill 2095, dated February 12, 2004:

"(5) Equivalency--For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol--

(A) shall be considered to be the equivalent of 1.5 gallon of renewable fuel; or

(B) if the cellulosic biomass ethanol or waste derived ethanol is derived from agricultural residue or is an agricultural byproduct (as that term is used in section 919 of the Energy Policy Act of 2003), shall be considered to be the equivalent of 2.5 gallons of renewable fuel."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request that the Congress of the United States include the language from the 2004 Senate Bill, cited herein, for future consideration in any proposed Energy Bill or other legislation that could further this cause.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 24, 2005
Adopted by the Senate March 30, 2005

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF ENERGY, SAMUEL W. BODMAN.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Power Marketing Administrations (PMAs) market electricity generated primarily by federal hydropower projects in thirty-three states served by the 1,190 consumer-owned electric utilities giving preference to public bodies and cooperatives; and

WHEREAS, Bonneville Power Administration provides a substantial amount of the electric power consumed in Idaho, including the sale of firm and surplus electric power to Idaho's investor-owned utilities and directs wholesale power to 26 rural electric cooperatives and municipalities in Idaho serving over 250,000 Idaho citizens; and

WHEREAS, the Administration's budget proposes to sell electric power from PMAs at market rates rather than the current practice of selling at cost-based rates; and

WHEREAS, the Pacific Northwest region has experienced a nearly fifty percent increase in wholesale power rates since the energy crisis of 2001-2002; and

WHEREAS, the current federal power program of cost-based rates ensures that all federal costs, with interest, from the generation, transmission and sale of federal power are recovered from purchasers through the rates charged; and

WHEREAS, the proposal contains a projected rate increase of twenty percent each year until it totals a one hundred percent increase, which is an escalation of significant magnitude and will severely harm the region's businesses and industries, as well as all the residents of the region; and

WHEREAS, the budget proposal constitutes a thinly disguised tax on the millions of Americans who purchase power through utilities supplied by PMAs; and

WHEREAS, recognizing the true costs of this proposal and assessing the economic impacts it entails, we find that the proposal is not a prudent choice and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress to reject the Administration proposal to move PMA rates to market rates thereby ensuring the continued responsible management of power generation, transmission and sale.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States and to the Secretary of the United States Department of Energy, Samuel W. Bodman.

Adopted by the House March 21, 2005
Adopted by the Senate March 25, 2005

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 105)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN PROCEDURAL RULES OF THE BOARD OF TAX APPEALS RELATING TO REPRESENTATION AND PRACTICE BEFORE THE BOARD, NOTICE OF APPEAL AND AGENCY DISCOVERY RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Board of Tax Appeals relating to representation and practice before the board, notice of appeal and agency discovery rules are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 36.01.01, Section 030, relating to the Representation and Practice Before the Board (Rule 30), Section 045, relating to Notice of Appeal -- Contents (Rule 45), and Section 082, relating to Agency -- Contrasted with Other Discovery (Rule 82), procedural rules of the Board of Tax Appeals, adopted as pending rules under Docket Number 36-0101-0401, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 7, 2005
Adopted by the House February 15, 2005

(S.C.R. No. 106)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A PENDING RULE OF THE IDAHO DEPARTMENT OF AGRICULTURE PERTAINING TO THE IDAHO COMMERCIAL FEED LAW.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a pending rule of the Idaho Department of Agriculture pertaining to the Idaho Commercial Feed Law is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the pending rule relating to IDAPA 02.06.02, Section 004, regarding incorporation by reference, adopted as a pending rule under Docket Number 02-0602-0402, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 10, 2005
Adopted by the House February 22, 2005

(S.C.R. No. 107)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE BUREAU OF OCCUPATIONAL LICENSES GOVERNING THE BOARD OF SOCIAL WORK EXAMINERS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Bureau of Occupational Licenses governing the Board of Social Work Examiners are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 24.14.01, Rules Governing the Board of Social Work Examiners, Section 202, relating to social work supervisor registration, Subsections 01.b, 01.c and 02.c only, Rules of the Bureau of Occupational Licenses adopted as pending rules under Docket Number 24-1401-0401, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 16, 2005
Adopted by the House March 9, 2005

(S.C.R. No. 110)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO CREATE A COMMITTEE TO STUDY THE PREVALENCE OF CERVICAL CANCER AND HUMAN PAPILLOMAVIRUS IN WOMEN IN THE STATE OF IDAHO AND TO EVALUATE THE CURRENT METHODS OF PUBLIC EDUCATION AND ACCESS TO REGULAR CANCER SCREENING AND OPTIONS FOR INCREASING SCREENING ACCURACY.

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

WHEREAS, following breast cancer, cervical cancer is the second most common cancer in women worldwide; and

WHEREAS, according to federal governmental statistics, cervical cancer is the third most common gynecological cancer among American women, with approximately 12,200 new cases diagnosed annually, 4,100 of which result in fatalities; and

WHEREAS, with regular and accurate screening, cervical cancer is highly preventable and although widespread screening programs have helped to reduce death rates of women from cervical cancer, women are still dying even with such advanced medical techniques and evaluative procedures; and

WHEREAS, cervical cancer cases in the United States are generally attributed to a lack of education, a reduction of access available to regular cervical cancer screening and a lack of screening accuracy; and

WHEREAS, experience shows that increasing cervical cancer awareness among women, especially the underserved women within our state, significantly reduces the probability of mortality; and

WHEREAS, cervical cancer disproportionately affects minority women and women with lower incomes because they are less likely to have access to routine screening; and

WHEREAS, approximately one-half of all cervical cancer cases are in women who have been screened and ten percent of cases are in women who have not been screened within the last five years; and

WHEREAS, the median age of cervical cancer patients at diagnosis is 47 years, the youngest median age for all female reproductive cancers; and

WHEREAS, new screening technologies, including FDA-approved testing for human papillomavirus, which is the cause of virtually all cervical cancers, offer new opportunities to finally eliminate this potentially deadly disease through early identification of women at increased risk; and

WHEREAS, leading medical organizations, including the American College of Obstetricians and Gynecologists, the American Cancer Society, and the Association of Reproductive Health Professionals, have recently updated their screening guidelines to include FDA-approved testing for the human papillomavirus; and

WHEREAS, women are entitled to proper cervical cancer information, so that they can be empowered to make informed health care decisions, and have access to routine screening, including the 46 most accurate methods available; and

WHEREAS, the Legislature of the State of Idaho recognizes that through education and screening, women can lower their likelihood of

developing cervical cancer, and that through early detection, cervical cancer can be successfully treated after it develops.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a Cervical Cancer Elimination Committee to take the lead in reviewing data regarding cervical cancer and human papillomavirus in women within this state and evaluating current methods used to provide women with information regarding cervical cancer, access to regular screening and options for increasing screening accuracy. In addition, the duties of the Committee shall include the identification of pockets of need, priority therapies and preventive vaccines which are effective in preventing and controlling the risk of cervical cancer. The Legislative Council shall appoint members from the Senate and the House of Representatives Health and Welfare Committees as members of the Committee.

BE IT FURTHER RESOLVED that the Committee, in collaboration with the Department of Health and Welfare and the American Academy of Pediatrics, the American Academy of Family Physicians, the American Cancer Society and the American College of Obstetricians and Gynecologists, shall report its findings of the causes and nature of cervical cancer, personal risk factors, the value of early detection and prevention, options for testing, new technologies, treatment costs, medical care reimbursement issues and physician education.

BE IT FURTHER RESOLVED that any advisors to the Committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the Committee's recommendations and proposed legislation.

BE IT FURTHER RESOLVED that all appropriate state agencies, as well as relevant professional/medical organizations may provide assistance to the Committee upon request of the chairperson.

BE IT FURTHER RESOLVED that the Committee shall timely report its findings and recommendations, including any proposed legislation to the Second Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the Senate February 28, 2005
Adopted by the House March 31, 2005

(S.C.R. No. 112)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN STANDARDS FOR COMMERCIAL DRIVING SCHOOLS INCORPORATED BY REFERENCE INTO THE RULES OF THE STATE BOARD OF EDUCATION GOVERNING UNIFORMITY.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain standards for commercial driving schools incorporated by reference into the rules of the State Board of Education governing uniformity are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Section 1.0, Subsection 1.8 pertaining to course content outline and sequence, Section 9.0, Subsection 9.3.a, pertaining to the number of days for conducting the training program, and Subsections 9.4.f and 9.4.g, both pertaining to maximum hours of classroom instruction, incorporated by reference into the rules of the State Board of Education governing uniformity, IDAPA 08.02.02, in Section 004, Subsection 07 and Section 230, Subsection 01, adopted as pending rules under Docket Number 08-0202-0406, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 23, 2005
Adopted by the House March 9, 2005

(S.C.R. No. 113)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND HONORING THE IDAHO FALLS POST REGISTER ON THE ONE HUNDRED TWENTY-FIFTH ANNIVERSARY OF ITS FOUNDING.

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

WHEREAS, the Idaho Register was first published in Eagle Rock in July of 1880 by William Wheeler and over the years that newspaper merged with the Times to become the Times-Register; and

WHEREAS, J. Robb Brady, son of former Idaho Governor and U.S. Senator James Brady, purchased the Daily Post in Idaho Falls in 1925 and died shortly thereafter and E. F. McDermott became publisher, a post he held until his death in 1977; and

WHEREAS, in 1931 the Daily Post and the Times-Register merged, forming the Post-Register, a name it has retained since, although the hyphen was consigned to obscurity in 1989; and

WHEREAS, the Post Register's history and longevity are rare, but rarer still is the fact that the newspaper today remains privately and locally owned and even more unusual is that forty-nine percent of the newspaper's stock is employee owned; and

WHEREAS, since 1998, nearly all of the newspaper's profits have gone toward buying stock in the paper on behalf of its employees; and

WHEREAS, the Post Register is Idaho's second largest newspaper, serving ten eastern Idaho counties and reaching more than sixty thousand readers a day.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we wish to recognize and commend the important achievement of the Post Register's one hundred twenty-fifth anniversary of its founding.

BE IT FURTHER RESOLVED, that the Secretary of the Senate be, and she is hereby authorized and directed to send a copy of this resolution to Mr. Roger Plothow, the Publisher of the Post Register.

Adopted by the Senate February 28, 2005
Adopted by the House March 16, 2005

(S.C.R. No. 116)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE, WITH EXCEPTIONS.

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

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of Rules Coordinator for review during the 2005 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved, with the exception of the following enumerated temporary rules:

IDAPA 07.07.01, rules of the Division of Building Safety relating to rules governing installation of heating, ventilation, and air conditioning systems, Section 005 pertaining to adoption and incorporation by reference of the International Fuel Gas Code, 2003 Edition, Subsections 01.d and 01.i only, and Section 006 pertaining to adoption and incorporation by reference of Parts V (mechanical) and Parts VI (fuel gas) of the International Residential Code for One and Two-Family Dwellings, 2003 Edition, Subsections 01.e and 01.i only, rules of the Division of Building Safety, adopted as temporary rules under Docket Number 07-0701-0501.

IDAPA 16.03.09, rules of the Department of Health and Welfare governing the medical assistance program, adopted as temporary rules under Docket Number 16-0309-0501, the entire rulemaking docket.

IDAPA 25.01.01, rules of the Outfitters and Guides Licensing Board relating to skiing, non-hazardous and hazardous terrain outfitter, designated agent, ski guide and ski guide trainee, adopted as temporary rules under Docket Number 25-0101-0401, the entire rulemaking docket.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Fifty-eighth Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which are excepted from approval hereunder or which were not submitted to the Legislature for review during the 2005 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-eighth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 10, 2005
Adopted by the House March 21, 2005

(S.C.R. No. 117)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain sections of Rules of the Division of Building Safety Governing Mobile Home Rehabilitation, certain Rules of the Department of Health and Welfare relating to CHIP B and Children's Access Card Rules pertaining to Delinquent Premium Payments, and certain Rules of the Outfitters and Guides Licensing Board are not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and

the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2005 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 07.03.13, Rules of the Division of Building Safety Governing Mobile Home Rehabilitation, adopted as pending fee rules under Docket Number 07-0313-0401, the entire rulemaking docket.

IDAPA 16.03.18, Rules of the Department of Health and Welfare relating to CHIP B and Children's Access Card Rules, Section 507, Subsection 04 only, pertaining to Delinquent Premiums at Renewal Date, adopted as pending fee rules under Docket Number 16-0318-0402.

IDAPA 25.01.01, Rules of the Outfitters and Guides Licensing Board, adopted as pending fee rules under Docket Number 25-0101-0402, the entire rulemaking docket.

BE IT FURTHER RESOLVED that IDAPA 07.03.13, Rules of the Division of Building Safety Governing Mobile Home Rehabilitation, adopted as a pending fee rule under Docket Number 07-0313-0401, the entire rulemaking docket, IDAPA 16.03.18, Rules of the Department of Health and Welfare relating to CHIP B and Children's Access Card Rules, Section 507, Subsection 04 only, pertaining to Delinquent Premiums at Renewal Date, adopted as pending fee rules under Docket Number 16-0318-0402, and IDAPA 25.01.01, Rules of the Outfitters and Guides Licensing Board, adopted as pending fee rules under Docket Number 25-0101-0402, the entire rulemaking docket be, and the same are hereby rejected and not approved, and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

Adopted by the Senate March 10, 2005
Adopted by the House March 21, 2005

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

ENCOURAGING GREATER ACCESS TO PRESCRIPTION DRUGS FOR IDAHO RESIDENTS THROUGH IDENTIFICATION AND CREATION OF PUBLIC-PRIVATE PARTNERSHIPS.

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

WHEREAS, prescribed medications are integral to the provision of appropriate medical treatment and prescribed medicines provide tremendous value in the improved treatment of disease, reduction in overall health care costs and better quality of life; and

WHEREAS, a significant number of Idaho residents lack health insurance coverage that offers adequate pharmaceutical benefits and many Idahoans struggle to afford the prescription medications they need; and

WHEREAS, a number of public and private pharmaceutical benefit programs exist to provide assistance to Idaho residents who need affordable prescription drugs; and

WHEREAS, there is a need for Idahoans to be able to identify pharmaceutical benefits for which they are eligible.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature of the State of Idaho encourages the Department of Health and Welfare to gather information about public and private prescription drug benefits not associated with a particular health plan or insurer, to include pharmaceutical manufacturer patient assistance programs, prescription drug discount card programs, prescription drug benefits in the SHCIP program, Medicare and Medicaid.

BE IT FURTHER RESOLVED that the Legislature encourages the department to utilize such information to assist Idaho residents in identifying benefits for which they may be eligible, and to promote the availability of existing resources such as the Rx Idaho Program.

BE IT FURTHER RESOLVED that the Legislature encourages the department to actively seek partnerships and to solicit cooperation and financial support from any available private sources, including pharmaceutical manufacturers.

Adopted by the Senate March 23, 2005
Adopted by the House March 30, 2005

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING DEVELOPMENT OF THE CONCEPT OF SUSTAINABILITY AT IDAHO INSTITUTIONS OF HIGHER EDUCATION.

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

WHEREAS, the people of the state of Idaho are justifiably proud of our rich tradition of quality institutions of higher education and preservation of our natural resources; and

WHEREAS, Idaho's institutions of higher education should be models for the wise stewardship of economic and environmental resources; and

WHEREAS, the state of Idaho and its institutions of higher education bear profound responsibility to increase awareness, knowl-

edge, technology and tools that will lead the state of Idaho to a prosperous and sustainable future; and

WHEREAS, environmental sustainability has been defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs and may include use of resources in a manner that allows the resources to be replenished by natural systems, as well as avoidance of pollution that damages biological systems and emphasizes use of resources in such a manner that they will never be exhausted; and

WHEREAS, the state of Idaho should encourage the mobilization of internal and external resources so its institutions can collaborate to develop a concept of sustainability that reflects Idaho's unique values and involves all stakeholders; and

WHEREAS, education is critical for pursuing a sustainable future for Idaho; and

WHEREAS, education for sustainability increases the power of all Idahoans to address future economic and environmental realities; and

WHEREAS, the state of Idaho's major industries have benefited from, and will continue to benefit from, commitment to an institutional focus on research and development of new ideas and technologies that will lead to a sustainable future; and

WHEREAS, the University of Idaho is paving the way to the future through innovative research, collaboration with statewide extensions and private industry, and the development of an effective sustainability curriculum.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that an educational focus on sustainability will lead the state of Idaho to the realization of its economic aspirations, environmental goals, and beyond our greatest expectations for the future.

Adopted by the Senate March 29, 2005
Adopted by the House April 4, 2005

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-EIGHTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-eighth Idaho Legislature in the Chamber of the House of Representatives at 7 p.m. on Monday, January 10, 2005.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 10, 2005, at 7 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 10, 2005
Adopted by the Senate January 10, 2005

(H.C.R. No. 3)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE PERMANENT JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Permanent Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Permanent Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Custom Printing, of Nampa, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 2005, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-eighth Idaho Legislature, hereinafter mentioned as party of the first part, and CUSTOM PRINTING, Nampa, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Custom Printing, as follows:

PERMANENT JOURNAL
FIRST AND SECOND REGULAR SESSIONS
AND ANY EXTRAORDINARY SESSIONS

135 copies of House Permanent Journal, including 6 hard-bound gold lettered volumes
135 copies of Senate Permanent Journal, including 6 hard-bound gold lettered volumes
270 total copies ..... $38.00 per page
Additional hard-bound gold lettered volumes ..... $50.00 per volume

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS FURTHER AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House not later than thirty (30) working days from date of receipt of final House copy, and to the Secretary of the Senate not later than thirty (30) working days from date of receipt of final Senate copy, and that for each day's failure to so deliver, there shall be deducted from the contract

price for printing said Journal the sum of Fifty Dollars ($50.00) per day for each day's delay.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the party of the first part, in the sum of Five Thousand Dollars ($5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Debbie Field
DEBBIE FIELD, Chairman

By /s/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

CUSTOM PRINTING

By /s/ Michael B. Cutler
MICHAEL B. CUTLER

Adopted by the House January 24, 2005
Adopted by the Senate February 4, 2005

(H.C.R. No. 4)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE DAILY JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Daily Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Daily Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Bureau of Copy and Records Services, of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 2005, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-eighth Idaho Legislature, hereinafter mentioned as party of the first part, and BUREAU OF COPY AND RECORDS SERVICES, Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Bureau of Copy and Records Services, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST AND SECOND REGULAR SESSIONS
AND ANY EXTRAORDINARY SESSIONS

130 copies of House Journal
130 copies of Senate Journal
260 total copies ..... $13.00 per page
100 additional copies ..... $13.00 per page

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS AGREED that in the printing of the Journal the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 a.m. on each day; provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable

delay in furnishing copy for such printing to the party of the second part.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the party of the first part, in the sum of Five Thousand Dollars ($5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Debbie Field
DEBBIE FIELD, Chairman

By /s/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

BUREAU OF COPY AND RECORDS SERVICES

By /s/ Bobbi Eckerle
BOBBI ECKERLE, Supervisor

Adopted by the House January 24, 2005
Adopted by the Senate February 4, 2005

(H.C.R. No. 5)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the printing of the House and Senate bills, resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and the Bureau of Copy and Records Services, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 2005, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-eighth Idaho Legislature, hereinafter referred to as the Joint Committee, and the Bureau of Copy and Records Services, hereinafter referred to as the Bureau of Copy and Records Services.

WITNESSETH:

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to the Bureau of Copy and Records Services per your letter response of October 20, 2004, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-eighth Idaho Legislature upon the following additional terms and conditions:

1. That the Bureau of Copy and Records Services will utilize the Docutech printer process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print House and Senate bills, resolutions and memorials.

2. That the Bureau of Copy and Records Services concurrently with the execution of this contract, deliver to the Joint Committee good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars ($5,000), guaranteeing the satisfactory and faithful performance by the Bureau of Copy and Records Services of all the terms and conditions of this contract.

3. That the Bureau of Copy and Records Services will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean, legible and with adequate contrast between print and paper to be easily read.

4. That the Bureau of Copy and Records Services will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeovers and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That the Bureau of Copy and Records Services will deliver all standard lot printed material conforming to the above requirements by 9 a.m. the next morning after receipt of copy, unless prior arrangements have been made.

7. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against the Bureau of Copy and Records Services bond.

8. That a standard lot of printed material will be two hundred fifty (250) copies or less of individual bills, resolutions or memorials at a cost of thirteen dollars ($13.00) per printed page which shall also provide for more or less copies in units of one hundred (100) at the same rate per page.

9. That the Bureau of Copy and Records Services will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That the Bureau of Copy and Records Services shall make copies available for sale to the public at the base per page rate, provided the order for such is received prior to the time the bill is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by the Bureau of Copy and Records Services and that the Joint Committee may terminate this agreement upon twenty-four (24) hours' notice to the Bureau of Copy and Records Services, with no liability accruing to the Joint Committee or to the State except for printing already completed and delivered.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Debbie Field
DEBBIE FIELD, Chairman

By /s/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

BUREAU OF COPY AND RECORDS SERVICES

By /s/ Bobbi Eckerle
BOBBI ECKERLE, Supervisor

Adopted by the House January 24, 2005
Adopted by the Senate February 7, 2005

(H.C.R. No. 6)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE PROGRAM OF AMERICA'S PROMISE, DESIGNATING THE IDAHO LEGISLATURE TO BE A LEGISLATURE OF PROMISE AND ENCOURAGING LEGISLATORS TO SUPPORT COMMUNITIES OF PROMISE TO DELIVER THE FIVE BASIC PROMISES TO IDAHO'S YOUTH.

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

WHEREAS, the Presidents' Summit for America's Future in 1997 challenged the nation to make children and youth a national priority by providing opportunities for their success through the fulfillment of fundamental promises; and

WHEREAS, America's Promise was drafted to include Five Basic Promises for youth:

Ongoing relationships with caring adults;

Safe places with structured activities during non-school hours;

Healthy start and future;

Marketable skills through effective education;

Opportunities to give back through community service; and

WHEREAS, Idaho became a State of Promise in 1998, and Governor Dirk Kempthorne, on behalf of the people of the state of Idaho, received the inaugural "Promise of America Award" from former President George H. W. Bush in October, 2003; and

WHEREAS, a statewide network of organizations and individuals has established thirteen Communities of Promise throughout the state intent on delivering the Five Basic Promises to the youth of their communities; and

WHEREAS, Communities of Promise are dependent upon leaders in the community to implement programs designed to deliver the Five Basic Promises locally; and

WHEREAS, it is appropriate that citizens look to their elected officials for support of programs that ensure the success of youth.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature of the State of Idaho be declared a "Legislature of Promise"; and

BE IT FURTHER RESOLVED that legislators support and encourage existing programs and promote development of new Communities of Promise within their districts for providing programs designed to deliver the Five Basic Promises to the youth in each community in Idaho.

Adopted by the House February 7, 2005
Adopted by the Senate February 21, 2005

(H.C.R. No. 7)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Fifty-eighth Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-eighth Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 1st day of February, 2005, by and between the Speaker of the House of Representatives, Bruce Newcomb, and the President Pro Tempore of the Senate, Robert L. Geddes, the Joint Committee of the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said THE CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding six hundred fifty (650) copies of the Session Laws of the First Regular Session of the Fifty-eighth Idaho Legislature and for printing and binding six hundred fifty (650) copies of the Session Laws of the Second Regular Session of the Fifty-eighth Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-eighth Idaho Legislature: Seventeen dollars and seventy-five cents ($17.75) per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished to party of the second part, plus eight dollars and thirty-five cents ($8.35) per volume for binding. For pages requiring reduction shots, an additional seven dollars ($7.00) per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at forty-six dollars ($46.00) per single volume, and fifty-nine dollars ($59.00) per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 2005, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 2006, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated January 31, 2005, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within sixty (60) days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within thirty (30) days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of fifty dollars ($50.00) per

day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by Concurrent Resolution has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Debbie Field
DEBBIE FIELD, Chairman

By /s/ Robert L. Geddes
ROBERT L. GEDDES, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

THE CAXTON PRINTERS, LTD.

By /s/ Dave Gipson
DAVE GIPSON, Vice President

Adopted by the House February 14, 2005
Adopted by the Senate February 22, 2005

(H.C.R. No. 11)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A PENDING RULE OF THE IDAHO TRANSPORTATION DEPARTMENT GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a pending

rule of the Idaho Transportation Department governing overlegal permittee responsibility and travel restrictions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 39.03.11, relating to overlegal permittee responsibility and travel restrictions, Section 200, subsection 06 only, pertaining to heavy commuter traffic restrictions, adopted as a pending rule under Docket Number 39-0311-0401, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 18, 2005
Adopted by the Senate March 7, 2005

(H.C.R. No. 12)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING A MODIFICATION TO EXISTING HOME AND COMMUNITY-BASED DEVELOPMENTAL DISABILITIES WAIVER PROGRAMS THAT INCLUDES AN OPPORTUNITY FOR INDIVIDUALS TO SELF-DIRECT THEIR OWN SERVICES AND SUPPORTS, ENCOURAGING THE DEPARTMENT OF HEALTH AND WELFARE TO PROCEED WITH WAIVERS AND OTHER IMPLEMENTATION PROCEDURES AND TO REPORT TO THE LEGISLATURE.

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

WHEREAS, the state of Idaho has home and community-based services available to eligible adults to avoid institutionalization; and

WHEREAS, the Department of Health and Welfare, in accordance with House Concurrent Resolution No. 29 of the First Regular Session of the Fifty-seventh Idaho Legislature, has been collaborating with the Idaho Council on Developmental Disabilities, service providers, consumers and advocates to develop a self-directed model of services and supports that provides an additional option to home and community-based waiver recipients; and

WHEREAS, the Department of Health and Welfare collaborated with the Idaho Council on Developmental Disabilities to obtain a grant to develop the necessary infrastructure to provide a new option for receiving services and supports under existing waiver programs.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Department is encouraged to proceed with an application to amend its existing waivers for individuals with developmental disabilities to include a self-directed system option for all individuals with developmental disabilities who are eligible for waiver services. This option presents waiver recipients who are living in their own homes and communities with the opportunity to control and direct Medicaid funds.

BE IT FURTHER RESOLVED that the Legislature encourages the Department to continue its collaboration with the Idaho Council on Developmental Disabilities, as well as other stakeholders that represent other home and community-based waiver participants.

BE IT FURTHER RESOLVED that the Legislature encourages the Department to pursue a test program that provides for evaluation of the system design and respond with necessary changes to meet the objectives of this new option. The test should be of a size that provides sufficient information for statewide implementation. Due to the initiative and time investment of the Idaho Council on Developmental Disabilities, the service option would be offered to eligible individuals under the Developmental Disabilities Home and Community-based Waiver Program. The Legislature acknowledges that the test program will require approval of the federal Centers for Medicare and Medicaid Services (CMS) prior to implementation.

BE IT FURTHER RESOLVED that the infrastructure costs associated with the test program, evaluation and start-up of statewide implementation are covered by the Independence Plus Grant awarded to the Department of Health and Welfare by the Centers for Medicare and Medicaid Services. However, after the third year of the grant, ending September 30, 2006, there may be some additional administrative costs associated with the implementation and ongoing monitoring of this program.

BE IT FURTHER RESOLVED that the Department of Health and Welfare report the results of the test program to the Second Regular Session of the Fifty-eighth Idaho Legislature along with recommendations for any further legislative action, including additional personnel needed by the Department based on the findings of the test program.

Adopted by the House March 4, 2005
Adopted by the Senate March 17, 2005

(H.C.R. No. 13)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING PENDING RULES OF THE DEPARTMENT OF INSURANCE RELATING TO REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain pending rules of the Department of Insurance relating to rebates and illegal inducements to obtaining title insurance business are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of

Representatives and the Senate concurring therein, that IDAPA 18.01.56, pending rules of the Department of Insurance relating to rebates and illegal inducements to obtaining title insurance business, adopted as pending rules under Docket Number 18-0156-0401, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 18, 2005
Adopted by the Senate March 3, 2005

(H.C.R. No. 14)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING PENDING RULES OF THE DIVISION OF BUILDING SAFETY GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain pending rules of the Division of Building Safety governing installation of heating, ventilation, and air conditioning systems are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 07.07.01, pending rules of the Division of Building Safety governing installation of heating, ventilation, and air conditioning systems, adopted as pending rules under Docket Number 07-0701-0402, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 18, 2005
Adopted by the Senate March 3, 2005

(H.C.R. No. 15)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE HEALTHY WELL-BEING OF IDAHOANS, AND ENCOURAGING GREATER PUBLIC AWARENESS OF THE HEALTH PROBLEMS ASSOCIATED WITH OBESITY AND THE BENEFITS OF REGULAR EXERCISE AND SOUND NUTRITION IN ENSURING WELLNESS AND LONGEVITY.

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

WHEREAS, nearly 119 million American adults, 65 percent of the population, are currently overweight or obese; and

WHEREAS, the direct and indirect costs of obesity in America are more than $117 billion per year; and

WHEREAS, according to the American Academy of Child and Adolescent Psychiatry (AACAP), the incidence of childhood obesity in the United States has grown rapidly in recent years; and

WHEREAS, obesity due to poor diet and lack of exercise is responsible for over 300,000 deaths each year; and

WHEREAS, according to the Trust for America's Health, Idaho has the 29th highest level of adult obesity in the nation at 21.8 percent, the 29th highest overweight levels for high school students at 7.4 percent, and the 28th highest overweight levels for low-income children ages 2 through 5 at 11.6 percent; and

WHEREAS, state and federal governments have a leadership role to play in fighting the obesity epidemic through public education, improved awareness, and by setting a positive example.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature of the State of Idaho encourage and support proactive efforts to inform Idahoans about the long-term health benefits of good nutrition and regular exercise.

BE IT FURTHER RESOLVED that legislators support and encourage innovative awareness efforts like Regence BlueShield of Idaho's "Legislators on the Move" program that promote personal responsibility for good health and exercise.

BE IT FURTHER RESOLVED that the Idaho Legislature supports public and private initiatives to help all Idahoans attain wellness through sound nutrition and regular exercise.

Adopted by the House March 3, 2005
Adopted by the Senate March 10, 2005

(H.C.R. No. 16)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE ON ENVIRONMENT, ENERGY AND TECHNOLOGY.

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

WHEREAS, there were numerous bills introduced in Congress from 1996 through 2004 which would have provided for the restructuring of the electric utility and energy industries in this country; and

WHEREAS, Idaho currently enjoys low electric rates compared to the rest of the nation, mainly because of our hydropower base; and

WHEREAS, while there may be some benefits to a competitive electric utility industry, there have been some large unintended consequences to the ratepayers and the citizens of the state given the California energy crisis and the Enron collapse; and

WHEREAS, on July 31, 2002, the Federal Energy Regulatory Commission announced a series of broad proposals to reform the wholesale power generation, trading and transmission markets known as Standard Market Design; and

WHEREAS, the Standard Market Design proposal has been repudiated and is opposed in most southern and western states and fails to recognize the distinct nature of the Northwest electricity grid, including the significant reliance on coordinated hydro operations that are subject to various nonpower obligations; and

WHEREAS, Idaho's water rights system is a complex system of management, and electric utility restructuring or the Standard Market Design rules could affect demand loads and river flows and have some large unintended consequences if not managed properly.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a Committee to undertake and complete a study of environment, energy and technology related issues from both the statewide perspective and the national perspective. The Committee is directed to involve representatives of industry, agricultural groups, small businesses, consumers of electricity and conservation interests. The Committee is also authorized to retain the services of a consultant, within appropriated moneys, who is familiar with the energy and technology industry and who can provide necessary economic or other research that can assist the Committee and the Legislature in making an informed decision on this most important topic.

BE IT FURTHER RESOLVED that the Committee shall make a progress report to the Second Regular Session of the Fifty-eighth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-ninth Idaho Legislature.

Adopted by the House March 4, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 17)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING COLLEGES OF EDUCATION AT IDAHO COLLEGES AND UNIVERSITIES TO INCLUDE A SEGMENT IN THE TEACHER EDUCATION CURRICULUM ADDRESSING RISK FACTORS, PROTECTIVE FACTORS AND TEEN SUICIDE WARNING SIGNS.

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

WHEREAS, during 1999-2001, 559 Idahoans died from suicide, and in the year 2001, 49 were between the ages of 5 and 24 and nearly 6,000 additional suicide attempts were estimated to have occurred among the 15-17 year age group; and

WHEREAS, as a result, teen suicide now ranks as the second leading cause of death among young people in Idaho between the ages of 10 and 18; and

WHEREAS, Idaho's overall suicide rate was 14.4 per 100,000 during 1999-2001, but 22.5 per 100,000 for 15-17 year old boys; and

WHEREAS, Idaho had the seventh highest suicide rate in the nation; and

WHEREAS, 18% of all high school students reported seriously considering attempting suicide in the previous year, and 15% reported they had made a plan for how they would attempt suicide; and

WHEREAS, four out of five young people who attempt suicide exhibit warning signs; and

WHEREAS, the risk factors and protective factors for suicide have been identified and are known; and

WHEREAS, teachers are in contact with youths a major portion of the day and are often the person a teen turns to for guidance and advice.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State Board of Education make every effort to encourage the colleges of education at the colleges and universities of Idaho to include in their teacher education curriculum a segment that addresses youth mental health and trains prospective teachers about the risk factors, protective factors, and suicide warning signs that may be exhibited which should alert professionals to take action to intervene and prevent suicide.

Adopted by the House March 9, 2005
Adopted by the Senate March 21, 2005

(H.C.R. No. 18)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING AN INTERIM COMMITTEE TO STUDY HUMAN TRAFFICKING IN IDAHO.

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

WHEREAS, human trafficking is a worldwide problem involving an estimated 600,000 to 800,000 victims; and

WHEREAS, human trafficking is a severe form of trafficking in which women and children are sexually exploited for commercial purposes; and

WHEREAS, human trafficking is a severe form of trafficking in which men, women and children are recruited and transported for labor or services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery; and

WHEREAS, human traffickers often prey on individuals who are poor, frequently unemployed or underemployed, and who may lack access to social safety nets, and victims are often lured with false promises of good jobs and better lives and are then forced to work under brutal and inhumane conditions; and

WHEREAS, the Trafficking Victims Protection Act of 2000 found approximately 20,000 to 50,000 victims in the United States and recognizes the importance of nongovernmental organizations in assisting trafficking victims and encourages the use of sanctions against countries that participate in, or take no action to curb, human trafficking; and

WHEREAS, the recommendations of the 2004 Department of Justice National Conference on Human Trafficking encourages federal, state and local partnerships between law enforcement, prosecutors and nongovernmental organizations to educate the public to recognize trafficking, assist in investigating trafficking, prosecute the offenders and assist the victims; and

WHEREAS, the Legislature recognizes the danger of human trafficking and seeks to educate the public, develop legislation and identify persons, agencies and organizations with expertise in human trafficking.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of human trafficking. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee shall be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the committee may include, but are not limited to, representatives of the judiciary, law enforcement, the Office of the Attorney General, prosecuting attorneys, criminal defense attorneys, domestic violence and sexual assault advocacy organizations, medical and psychological organizations, social service providers, the Department of Health and Welfare, and faith-based organizations. Nonlegislative members of the committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall examine human trafficking in Idaho including, but not limited to, the following authorized activities:

1. Data collection and findings on the nature and extent of human trafficking in Idaho;
2. Identification of available federal, state and local programs that provide services to trafficking victims;
3. Analysis and recommendations regarding the ability of existing state criminal statutes to address trafficking; and
4. Recommendations regarding the prevention of trafficking, the prosecution of offenses, and victim assistance.

BE IT FURTHER RESOLVED that the committee shall report its findings and recommendations, including remedies for any deficiencies found by the committee, to the Legislature, the Office of the Governor and the Idaho Supreme Court by January 1, 2006.

Adopted by the House March 10, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 20)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE TEACHER MENTORING PROGRAM AND COMMENDING TO THE STATE BOARD OF EDUCATION CREATION OF A TASK FORCE TO DEVELOP A TEST PROGRAM MODELING TEACHER MENTORING AND ENCOURAGING PARTICIPATION AND COOPERATION FROM THE STATE DEPARTMENT OF EDUCATION, SCHOOL DISTRICT TRUSTEES AND SUPERINTENDENTS IN LOCAL SCHOOL DISTRICTS, AND TEACHERS IN THE SCHOOLS.

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

WHEREAS, specific school districts developed mentoring programs over the course of past years to promote teacher development and improvement; and

WHEREAS, the Legislature recognized the potential of mentoring programs and adopted a statute mandating a mentoring program according to State Department of Education guidelines to foster teacher professional development and increase student achievement; and

WHEREAS, initially, the mentoring program was approved with state funding to support the mandate, but since 2003 there has been no state funding and there is no projected future funding; and

WHEREAS, some school districts have struggled to provide quality mentoring programs and there is a need to determine effective methods of professional teacher development that are consistent across school districts enhancing teacher growth, ensuring fiscal accountability, and standardizing data collection for measuring program effectiveness; and

WHEREAS, a well-designed and reasonably funded mentoring program for teacher training can lead to improved student performance through professional development for teachers.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature commends to the State Board of Education that the Board adopt a course of action appointing a task force to research, formulate and implement models to pilot and evaluate teacher support programs. Models tested may include current Idaho programs and practices or other teacher support programs and practices used in other states. The model project shall be implemented over the next two years demonstrating teacher support and professional development effectiveness and cost efficiency, and to determine how

teacher support and development improves and increases student achievement levels. The task force shall use nonstate funds to perform the aforesaid activities, to design, collect and evaluate standardized programmatic and fiscal data, and to closely monitor the pilot programs. The task force shall provide a progress report to the House of Representatives Education Committee and the Senate Education Committee in 2006, and a final report in 2007. The final report should include, at a minimum, recommendations for statewide teacher support program components, funding requirements, and necessary administrative rules for implementation. The Legislature further encourages participation and cooperation from the State Department of Education, school trustees and superintendents in local school districts, and teachers in the schools.

Adopted by the House March 17, 2005
Adopted by the Senate March 29, 2005

(H.C.R. No. 21)

A CONCURRENT RESOLUTION
PROVIDING LEGISLATIVE FINDINGS AND PROMOTING PUBLIC AWARENESS AND EDUCATION ABOUT THE VALUE OF HEALTHY MARRIAGES TO MEN, WOMEN, CHILDREN AND IDAHO'S COMMUNITIES.

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

WHEREAS, the divorce rate in Idaho and nationally has been accelerating; and

WHEREAS, just as the family is the foundation of society, the marital relationship is the foundation of the family and strengthening marriages can only lead to stronger families, children and communities, as well as a stronger economy; and

WHEREAS, an inability to cope with stress from both internal and external sources leads to significantly higher incidences of domestic violence, child abuse, absenteeism, medical costs, learning and social deficiencies and divorce; and

WHEREAS, relationship skills can be learned and, once learned, relationship skills can facilitate communication between parties to a marriage and assist couples in avoiding conflict, and once relationship skills are learned they can be carried into parenting, the workplace, schools, neighborhoods and civic relationships; and

WHEREAS, by reducing conflict and increasing communication, stressors can be diminished and coping can be further enhanced; and

WHEREAS, when effective coping exists, domestic violence, child abuse and divorce and its effect on children, including absenteeism from school, medical costs and learning and social deficiencies are diminished; and

WHEREAS, the state has a compelling interest in educating its citizens with regard to marriage and, if contemplated, the effects of divorce.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of

Representatives and the Senate concurring therein, that we are adopting this resolution to promote public awareness and education about the value of healthy marriages to men, women, children and Idaho's communities, to encourage public programs to reduce the disincentives to marriage in means-tested aid programs and social service programs, to promote the emotional and financial health and well-being of Idaho's children, and to encourage healthy marriage standards when adopting and implementing new public policies to promote the emotional and financial health and well-being of Idaho's children.

Adopted by the House March 16, 2005
Adopted by the Senate March 29, 2005

(H.C.R. No. 22)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE STATE EMPLOYEE COMPENSATION AND BENEFITS SYSTEM.

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

WHEREAS, Section 67-5309C, Idaho Code, provides that it is "the intent of the legislature that an employee may expect to advance in the salary range to the labor market average rate for the pay grade assigned to a classification"; and

WHEREAS, to accomplish the Legislature's stated intent, salary ranges need to be adjusted each year to reflect market increases, and funding must be provided to keep current employees' salaries at or progressing toward market; and

WHEREAS, the state has been unable to fund market competitive employee pay increases; and

WHEREAS, 76.3% of classified state employees are paid below their pay grade policy point; and

WHEREAS, classified state employee average wages are below average labor market rates by approximately 14.2%.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the state employee compensation and benefits system. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the committee will:

(1) Review the distribution of health insurance costs;

(2) Review the Hay Plan;

(3) Review the concept of merit increases for specific occupational groups;

(4) Review agency specific human resource compensation issues;

(5) Review temporary merit increases and their funding sources;

(6) Review agency use of funding appropriated for personnel costs;

(7) Review any other human resource management issues; and

(8) Develop any legislation or recommendations related to these matters as the committee deems appropriate.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the House March 21, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 23)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF PROPERTY TAXATION MATTERS.

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

WHEREAS, rising property taxes are a major concern to residential property owners; and

WHEREAS, the state's current tax system includes the property tax on real and personal property; and

WHEREAS, the Idaho Legislature had many measures introduced in 2005 regarding the property tax which included modifying the fifty-fifty homeowner's exemption, the circuit breaker property tax relief law, full disclosure of property prices at sale, the three percent cap for local units of government expenditures and placing a restriction on the amount of value that property market values may be increased per year; and

WHEREAS, the property tax may be one of the most hated taxes in the state because it can be a tax on a person's debt as much as on the value of their property; and

WHEREAS, it is the desire of this Legislature that a property tax structure encourage and not hinder economic development, and that the property tax structure recognize the modern economy and be poised to lead the state into the twenty-first century.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legis-

lative Council is authorized to appoint a fourteen member committee to undertake and complete a study of the state's property tax structure in all of its aspects, with the goal of the committee's recommendations being to develop a strategy to implement a property tax structure over the succeeding years that is balanced in its application and effect, that encourages economic development, that meets the revenue needs of local units of government, encourages and assists economic development and answers the concern over rising property values and property taxes. The Legislative Council shall determine the membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation to the Second Regular Session of the Fifty-eighth Idaho Legislature.

Adopted by the House March 18, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 25)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

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

WHEREAS, the First Regular Session of the Fifty-seventh Idaho Legislature adopted Senate Concurrent Resolution No. 103 which authorized the appointment of a committee to undertake and complete a two-year study of natural resource issues, including issues relating to water, throughout the state of Idaho; and

WHEREAS, during the course of the committee's term, aquifers in many areas of Idaho continued to suffer long-term declines, threatening the economic well-being and creating legal conflicts and, based on associated concerns, the Second Regular Session of the Fifty-seventh Idaho Legislature, adopted House Concurrent Resolution No. 56, which authorized the expansion of the committee for the purpose of attempting to stabilize the water delivery system throughout the state of Idaho; and

WHEREAS, the committee's official term expired on November 30, 2004. Numerous water and other natural resource-related issues that will have a major impact upon the future of Idaho and the quality

of life our citizens enjoy continue to be subjects that require ongoing legislative scrutiny.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of various natural resource issues. The committee shall consist of ten legislators with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the Legislative Council is authorized, in the event it deems necessary, to expand membership of the committee to continue to study and evaluate ways to stabilize the water distribution system in Idaho.

BE IT FURTHER RESOLVED that the cochairmen of the committee are authorized to appoint advisors with technical expertise in the water supply arena and are expected to receive input from stakeholders in the water rights system of Idaho to attempt to stabilize the water delivery system in this state.

BE IT FURTHER RESOLVED that any advisors to the committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations and proposed legislation.

BE IT FURTHER RESOLVED that the committee shall make a progress report to the Second Regular Session of the Fifty-eighth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-ninth Idaho Legislature.

Adopted by the House March 24, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 26)

A CONCURRENT RESOLUTION

RECOGNIZING THE ACCOMPLISHMENTS OF THE CIVILIAN CONSERVATION CORPS IN THE STATE OF IDAHO AND DESIGNATING MARCH 31 OF EACH YEAR AS CCC RECOGNITION DAY.

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

WHEREAS, on March 31, 1933, President Franklin D. Roosevelt signed into law the authorization to form a Civilian Conservation Corps (CCC) to help alleviate the horrific unemployment problems of the Great Depression, and this year marks the 72nd anniversary of the CCC; and

WHEREAS, there were one hundred fifty-one camps located in the state of Idaho, thirty-three in national forests, five in state forests, one in a private forest, five dedicated to soil conservation service, and one in a state park; and

WHEREAS, approximately 28,000 men from Idaho were enrollees in CCC camps; and

WHEREAS, lasting impact on the infrastructure of the state of Idaho includes fire lookouts, large diversion dams, over 3,000 miles of telephone lines, planting over 28,000,000 trees, 484,149 man-days fighting forest fires, 641,464 acres protected from tree and plant disease, and insect pest control and rodent and predatory animal control provided on over 4 million acres; and

WHEREAS, in addition to the impact of projects throughout the state and nation, it is difficult to calculate the impact on the enrollees who were given the opportunity to work hard, eat hearty and gain weight, while learning job skills and work ethic which would sustain them individually and the nation as a whole through the next generation and beyond; and

WHEREAS, at least 40,000 illiterates were taught to read and write during their CCC experience; and

WHEREAS, many left the CCC to become soldiers in World War II, many settled in the states where they had been encamped, and many returned to their homes with new skills and varied interests; and

WHEREAS, it is appropriate that the state of Idaho join with other states to recognize the Civilian Conservation Corps.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature hereby honors and acknowledges the contributions of the Civilian Conservation Corps to the state of Idaho. In recognition of these contributions, the Legislature hereby designates March 31 of each year as CCC Recognition Day.

Adopted by the House March 28, 2005
Adopted by the Senate March 31, 2005

(H.C.R. No. 28)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS REGARDING THE NEED FOR MANAGED RECHARGE OF THE EASTERN SNAKE PLAIN AQUIFER AND DIRECTING THE NATURAL RESOURCES INTERIM COMMITTEE IN CONJUNCTION WITH THE IDAHO WATER RESOURCE BOARD TO PURSUE IMPLEMENTATION OF MANAGED RECHARGE.

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

WHEREAS, the extended drought in combination with changes in irrigation practices and ground water pumping has resulted in reduced spring discharges and reduced gains to the Snake River from the Eastern Snake Plain Aquifer; and

WHEREAS, reduced spring discharges and reduced gains to the Snake River have resulted in insufficient water supplies to satisfy existing beneficial uses relying on spring discharges and Snake River flows; and

WHEREAS, reduced spring discharges and reduced gains to the

Snake River have led to conflicts between water users diverting from water sources hydraulically connected to the Eastern Snake Plain Aquifer; and

WHEREAS, the conflict between water users poses a significant threat to the state's economy as well as to the economic well-being of individual water users; and

WHEREAS, the welfare of the people of the state of Idaho is dependent upon the conservation, development and augmentation of the water resources of the state and the protection and preservation of such resources for application to beneficial uses within the state pursuant to state law; and

WHEREAS, Policy 1J, of the Idaho State Water Plan, encourages the implementation of managed recharge pursuant to state law; and

WHEREAS, the Idaho Department of Water Resources prepared a report entitled "Feasibility of Large-Scale Managed Recharge of the Eastern Snake Plain Aquifer System" in December 1999, that sets forth a reconnaissance-level basis for development of a managed recharge program; and

WHEREAS, specific site investigations, feasibility-level evaluations, assessment of the availability of water supplies, affect on existing water rights, and other analyses are required; and

WHEREAS, water users addressing the Expanded Natural Resources Interim Committee in 2004 urged the state of Idaho to move forward with the implementation of an effective managed recharge program to augment the Eastern Snake Plain Aquifer; and

WHEREAS, there is an urgent need to target managed recharge to locations that will provide maximum benefits to Snake River reaches relied upon by affected water users.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Natural Resources Interim Committee, in conjunction with the Idaho Water Resource Board, is directed to work with interested parties to develop specific site investigations, assessments of the availability of water supplies and a plan for implementation of a managed recharge program for the Eastern Snake Plain Aquifer that will provide maximum benefits to Snake River reaches relied upon by affected water users along with recommendations for necessary legislative changes to implement and to fund the program.

BE IT FURTHER RESOLVED that the Natural Resources Interim Committee and the Idaho Water Resource Board meet with potentially affected water right holders and federal agencies to resolve any potential institutional impediments to implementation of an effective managed recharge program and to ensure that such program is consistent with applicable law.

BE IT FURTHER RESOLVED that the Natural Resources Interim Committee and the Idaho Water Resource Board pursue any required federal legislation to obtain access to and use of federal lands and facilities necessary for the implementation of an effective managed recharge program.

Adopted by the House March 31, 2005
Adopted by the Senate April 4, 2005

(H.C.R. No. 29)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND COMMENDING JARED AND JERUSHA HESS AND THE CITY OF PRESTON FOR THE PRODUCTION OF THE MOVIE "NAPOLEON DYNAMITE."

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

WHEREAS, the State of Idaho recognizes the vision, talent and creativity of Jared and Jerusha Hess in the writing and production of "Napoleon Dynamite"; and

WHEREAS, the scenic and beautiful City of Preston, County of Franklin and the State of Idaho are experiencing increased tourism and economic growth; and

WHEREAS, filmmaker Jared Hess is a native Idahoan who was educated in the Idaho public school system; and

WHEREAS, the Preston High School administration and staff, particularly the cafeteria staff, have enjoyed notoriety and worldwide attention; and

WHEREAS, tater tots figure prominently in this film thus promoting Idaho's most famous export; and

WHEREAS, the friendship between Napoleon and Pedro has furthered multiethnic relationships; and

WHEREAS, Uncle Rico's football skills are a testament to Idaho athletics; and

WHEREAS, Napoleon's bicycle and Kip's skateboard promote better air quality and carpooling as alternatives to fuel-dependent methods of transportation; and

WHEREAS, Grandma's trip to the St. Anthony Sand Dunes highlights a long-honored Idaho vacation destination; and

WHEREAS, Rico and Kip's Tupperware sales and Deb's keychains and glamour shots promote entrepreneurism and self-sufficiency in Idaho's small towns; and

WHEREAS, Napoleon's artistic rendition of Trisha is an example of the importance of the visual arts in K-12 education; and

WHEREAS, the schoolwide Preston High School student body elections foster an awareness in Idaho's youth of public service and civic duty; and

WHEREAS, the "Happy Hands" club and the requirement that candidates for school president present a skit is an example of the importance of theater arts in K-12 education; and

WHEREAS, Pedro's efforts to bake a cake for Summer illustrate the positive connection between culinary skills to lifelong relationships; and

WHEREAS, Kip's relationship with LaFawnduh is a tribute to e-commerce and Idaho's technology-driven industry; and

WHEREAS, Kip and LaFawnduh's wedding shows Idaho's commitment to healthy marriages; and

WHEREAS, the prevalence of cooked steak as a primary food group pays tribute to Idaho's beef industry; and

WHEREAS, Napoleon's tetherball dexterity emphasizes the importance of physical education in Idaho public schools; and

WHEREAS, Tina the llama, the chickens with large talons, the 4-H milk cows, and the Honeymoon Stallion showcase Idaho's animal husbandry; and

WHEREAS, any members of the House of Representatives or the Senate of the Legislature of the State of Idaho who choose to vote "Nay" on this concurrent resolution are "FREAKIN' IDIOTS!" and run the risk of having the "Worst Day of Their Lives!"

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend Jared and Jerusha Hess and the City of Preston for showcasing the positive aspects of Idaho's youth, rural culture, education system, athletics, economic prosperity and diversity.

BE IT FURTHER RESOLVED that we, the members of the House of Representatives and the Senate of the State of Idaho, advocate always following your heart, and thus we eagerly await the next cinematic undertaking of Idaho's Hess family.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this resolution to Jared and Jerusha Hess, the Mayor of the City of Preston and the Principal of Preston High School.

Adopted by the House April 6, 2005
Adopted by the Senate April 6, 2005

CERTIFICATE OF SECRETARY OF STATE

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

I, BEN YSURSA, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Fifty-eighth Legislature of the State of Idaho, First Regular Session thereof, which convened January 10, 2005, and which adjourned on April 6, 2005, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this eleventh day of May, 2005.

Ben Ysursa

Secretary of State

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

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2004-03

CONTINUATION OF THE IDAHO RURAL PARTNERSHIP REPEALING AND REPLACING EXECUTIVE ORDER 2003-01

WHEREAS, Idaho is among the most rural states in the nation; and

WHEREAS, Idaho's tremendous geography and sparse population create problems of distance and isolation; and

WHEREAS, the most rural counties in Idaho consistently have lower per capita incomes, higher unemployment rates, lower rates of population growth, higher poverty levels, and less new construction, and job growth; and

WHEREAS, the most rural residents of Idaho have less access to health care services, employment training, business assistance, library service, and diverse educational and cultural opportunities; and

WHEREAS, the most rural communities have disproportionately large infrastructure needs for transportation, utility services, and education; and

WHEREAS, the multitude of public and private organizations with an interest in helping rural Idaho need a mechanism for coordination and collaboration; and

WHEREAS, there are critical areas of need in rural Idaho including increased leadership and governance, connectivity to telecommunication and broad bandwidth, excellent and relevant education and workforce development at all levels, funding for the creation, maintenance, and improvement of infrastructure, and the development of active local economic development teams;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. The Idaho Rural Partnership (IRP) shall be authorized as an organization with an open membership for institutions, including all local, tribal, state, and federal governments, as well as for-profit and not-for-profit private organizations, that have an interest in or some responsibility for Idaho's rural development.
2. The IRPs responsibilities will be to:
   a. Assess conditions of rural Idaho;
   b. Advise the Governor and the Legislature on public policy and strategies to improve the quality of life in rural Idaho;
   c. Act as a clearinghouse of information and as a referral center on rural programs and policies;
   d. Conduct outreach to rural communities and facilitate communication between rural residents and public and private

organizations that provide services to rural communities;

e. Identify organizations, authorities, and resources to address various aspects of rural development;

f. Serve as a nonpartisan forum for identifying and understanding rural issues from all perspectives;

g. Develop better intergovernmental and private/public coordination and to seek out opportunities for new partnerships to achieve rural development goals within the existing structure;

h. Foster coordinated approaches to rural development that support local initiatives, not to usurp the individual missions of any of its member organizations or duplicate effort;

i. Seek solutions to unnecessary impediments to rural development, first within Idaho and then through the National Rural Development Partnership; and

j. Work cooperatively with the National Rural Development Partnership and other state rural development councils.

3. The IRP shall be managed by a Board of Directors that shall include the following members:

a. A representative from the Governor's office;

b. The Directors of the Idaho Departments of Agriculture, Commerce and Labor, Environmental Quality, and Transportation;

c. The Director of the Cooperative Extension System;

d. A representative from each of the following federal agencies: USDA-Rural Development, Bureau of Land Management, Economic Development Administration, Environmental Protection Agency, Farm Services Agency, US Forest Service, and Housing & Urban Development;

e. Four state legislators (Two Senators and Two Representatives) selected by their respective leadership;

f. A Representative chosen by (each of the federally-recognized) Indian Tribes in the State of Idaho;

g. A representative from each of the following local government organizations: Association of Idaho Cities, Idaho Association of Counties, Economic Development Districts, and Resource Conservation & Development organizations;

h. A representative chosen by each of the following entities: IRP Business Development Committee, the primary contractor at the Idaho National Engineering and Environmental Laboratory, and the Idaho Association of Commerce & Industry;

i. Five rural leaders chosen by the Governor representing private for-profit businesses (including agri-business), private nonprofit organizations, Chambers of Commerce, and Community Based Organizations, who live and/or work in rural Idaho and represent a geographic balance across the state; and

j. Non-voting, ad-hoc members may be included on the Board to assist with specific issues and projects as necessary.

4. Except for their initial appointment, which shall be from the time Executive Order 2003-01 was enacted on January 23, 2003, those IRP Board members appointed by the Governor (see paragraphs 3 a, b, and g above) shall serve four-year terms concur-

rent with the Governor's term, though lagging behind by three months, the Governor's term. The difference of three months will allow the Governor time to make appointments to the Board after his or her inauguration, and to ease the transition for new members.

5. The IRP shall be led by two Co-Chairs, both of whom shall be elected by the IRP Board of Directors from among their membership, with one elected from the State Agency Directors serving on the Board and the other from all other categories of board membership. The Co-Chairs shall serve for a two-year term, with the possibility of one additional term if re-elected, the term(s) to be synonymous with the Governor's term. The responsibilities of the Co-Chairs shall be to:
   a. Set operating policies with approval from the full Board;
   b. Review and respond to issues in the interim between Board meetings; and
   c. Manage the IRP budget and staff, including the hiring and dismissal of the IRP Executive Director.
6. The IRP Executive Director shall be:
   a. Responsible for managing the day-to-day operations of the IRP as directed by the IRP Co-Chairs;
   b. An exempt, full-time position of the Idaho Department of Commerce and Labor as set forth in Idaho Code 67-4702;
   c. A person with the skills necessary to manage a diverse public organization effectively and with broad experience in building and sustaining networks and partnerships; and
   d. Hired through an open and competitive process when a vacancy occurs, after a broad, statewide advertising campaign without any pre-selection.
7. The IRP Board of Directors shall meet no less than once a quarter.

This Executive Order repeals and replaces Executive Order No. 2003-01.

This Executive Order shall cease to be effective on December 31, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this third day of September in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-04

ESTABLISHMENT OF THE CAMPAIGN LEADERSHIP TEAM FOR THE IDAHO STATE EMPLOYEES CHARITABLE GIVING CAMPAIGN REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-08

WHEREAS, Idaho state employees desire help to improve their communities; and

WHEREAS, Idaho state employees have traditionally been very generous in contributing to help those most vulnerable; and

WHEREAS, the State of Idaho has an interest in establishing a single state employee charitable campaign which minimizes workplace distraction and administrative costs to Idaho's taxpayers, as well as ensuring the voluntary nature of employee participation; and

WHEREAS, a workplace charitable giving campaign can build morale by providing an opportunity for Idaho state employees to contribute positively to their communities as state employees; and

WHEREAS, Idaho state employees should have the ability to choose to give to any health and human service tax exempt 501(c)(3) organization.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, do hereby order as follows:

There is hereby created a Campaign Leadership Team comprised of state employees and appointed by the Governor, which shall include a chair and co-chair, in order to establish policy and govern the Idaho state employee charitable giving campaign.

Each Idaho state Department Head shall appoint a Campaign Coordinator representing each Department in order to provide leadership in planning and completing the Idaho state employee charitable giving campaign for their Department.

The Campaign Leadership Team shall annually provide a report of the statewide results to the Governor.

The Executive Order repeals and replaces Executive Order 2000-08.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this third day of September in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-05

IDAHO CODE OF FAIR EMPLOYMENT PRACTICES, REPLACING EXECUTIVE ORDER NO. 00-09

WHEREAS, the United States through its Constitution, laws, executive orders, and regulations has declared that all persons are to be treated fairly and equally; and the State of Idaho is committed to fulfilling that federal mandate; and

WHEREAS, the Legislature of the State of Idaho by Title 44, Chapter 17, and Title 67, Chapter 59, of the Idaho Code has declared that employment discrimination based upon race, color, national origin, religion, disability, sex, or age is illegal; by Title 56, Chapter 7, that the disabled shall be free from employment discrimination in public service; and by Title 65, Chapter 5, that veterans are to be given preference by public employers; and

WHEREAS, every Idahoan should be provided the opportunity to fully develop and use his/her talents. When we allow race, color, religion, national origin, sex, age, and disability to prevent anyone from reaching full potential, we fail that person, our state, and our country. In accordance with the principles of fair employment practices, we must strive to recognize and advance the abilities and talents of all people, while denying no individual his/her rightful opportunities; and

WHEREAS, we must assume our citizen-granted role of leadership in the protection of freedom for all citizens; and we must serve in that leadership role as a model for government, business, industry, labor, and education in this regard.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, in that spirit and to that purpose, do hereby proclaim the following Idaho Code of Fair Employment Practices shall continue to be the governing policy throughout every department of the Executive Branch of Government of the State of Idaho.

ARTICLE I--Employment Policies of State Agencies

State employees shall be recruited, appointed, assigned, and promoted upon the basis of individual merit, in accordance with the principles of fair treatment and non-discrimination on the basis of race, color, sex, religion, national origin, age, or disability. Veterans are to be given preference in accordance with applicable state and federal laws and regulations.

All state departments, commissions, and boards are directed to review their present Human Resource policies and practices regarding recruitment, appointment, promotion, demotion, transfer, retention, discipline, separation, training, and compensation to assure compliance with this Executive Order. They shall regularly review present state and federal laws and regulations and implement procedures to assure equal opportunity for minorities and women, and to comply with affirmative action obligations for individuals with disabilities, and qualified veterans within the state workforce.

The Division of Human Resources shall take positive steps to ensure that the entire examination process; oral, written, and ratings, shall be

free from either conscious or inadvertent bias. State agencies shall give wide distribution of notice of employment opportunities so that all citizens may be fully advised of career opportunities in state government. Employment announcements issued by state agencies shall include a statement such as, "The State of Idaho is an Equal Opportunity Employer. In addition, preference may be given to veterans who qualify under state and federal laws and regulations."

ARTICLE II--State Action

All services of every state agency shall be performed without discrimination based on race, color, religion, national origin, sex, age, or disability. No state facility shall be used in furtherance of any discriminatory practice nor shall any state agency become a party to any agreement, arrangement, plan, contract, or subcontract which has the effect of sanctioning such practices.

ARTICLE III--State Financial Assistance

Race, color, religion, national origin, sex, age, or disability shall not be considered in state-administered or sponsored programs involving the distribution of funds to qualified recipients for benefits authorized by law; and state agencies shall not provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

ARTICLE IV--State Employment Services

All state agencies, including educational institutions, which provide employment referral or placement services to public or private employers, shall accept job orders and applications on a non-discriminatory basis. They shall refuse to fill any job order designed, either consciously or inadvertently, to exclude any person from employment because of race, color, religion, national origin, sex, age, or disability except where a bona fide occupational qualification has been established.

ARTICLE V--State Education, Counseling, and Training Program

All educational counseling and vocational guidance programs, employment and training programs, policy declarations and staff services of state agencies or those in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religion, national origin, sex, age, or disability.

ARTICLE VI--Cooperation with Idaho Human Rights Commission

All state departments shall cooperate fully with the Idaho Human Rights Commission if state employees or applicants for state employment file complaints with the Commission. They shall also utilize the services of the Commission when needing technical advice regarding compliance with the equal employment opportunity provisions of Title 67, Chapter 59, Idaho Code. The Commission shall act as a referral agency for information or complaints concerning discrimination in certain protected class-

es not covered by Title 67, Chapter 59, Idaho Code.

ARTICLE VII--Enforcement by Appointing Authorities

The head of each state executive department shall be responsible for carrying out the policies of this Idaho Code of Fair Employment Practices and shall inform and educate all commission and board supervisory personnel regarding its intent and spirit. They shall establish clearly written directions to carry out this policy. Upon a showing of credible evidence to the appropriate appointing authority that any officer or employee of the state has violated any of the provisions of this Executive Order or any applicable state or federal law or regulation, the appointing authority shall take appropriate disciplinary action.

Every appointing authority shall be responsible for the development of a complaint procedure to be used by employees and recipients of state services who believe they have been subjected to harassment. This policy shall include at least the following: (1) a statement defining and forbidding harassment of any nature, (2) an investigative procedure designed to protect the confidentiality of participants wherever possible and to effect a timely and fair resolution of the allegation, and (3) a statement advising employees and service recipients of their rights to raise this issue with appropriate governmental agencies and the courts. The Idaho Human Rights Commission and the Division of Human Resources shall assist in the development of these policies.

ARTICLE VIII-- Fair Employment/Affirmative Action Oversight

The agency charged with overseeing the review of the state's Equal Employment and Affirmative Action planning shall be the Division of Human Resources under the Executive Office of the Governor. The Division will consult with appointing authorities and report to the Governor on the State's fair employment practices, including Equal Employment Opportunity and Affirmative Action compliance efforts on an annual basis.

This Executive Order repeals and replaces Executive Order No 00-09.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this sixth day of October in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-06

CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION, REPLACING EXECUTIVE ORDER NO. 2003-04

WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and

WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birth weight babies, and infant deaths is significantly higher for adolescent mothers; and

WHEREAS, in 1997, approximately 2,789 Idaho females aged 10 to 19 became pregnant, at a rate of 54 pregnancies per week; and

WHEREAS, twenty-eight percent of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents; and
2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.

The Council shall be limited to no more that 19 members appointed by the Governor.

The members shall serve two-year terms. A chair of the Council shall be appointed annually by the Governor.

The Council members shall include persons representing:

Public health/welfare
Education
Clergy
Private business
Parents
Adolescents
Local elected officials
Health care providers
Media

The Governor's Coordinating Council for Families and Children will provide administrative support to the Council.

This Order replaces Executive Order No. 2003-04.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twelfth day of October in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-07

ESTABLISHING THE CAPITOL MALL AREA AS A WEAPON FREE ZONE REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-02

WHEREAS, the safety and protection of the public, employees of state government and elected officials is a vital concern; and

WHEREAS, continuing access for the public to state government offices located within the Capitol Mall Area is a high priority; and

WHEREAS, current state laws provide for safety and protection from the potential threats of weapons in the work environment for the public, local government employees and elected officials in city and county buildings; and

WHEREAS, it is in the best interests of the general public, employees and state officials and the efficient and safe operation of state government to ensure the highest level of safety in the Capitol Mall Area; and

WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the state of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.
2. The following individuals are exempt from this Executive Order:
   a. State Elected Officials;
   b. Peace officers as defined in Idaho Code Section 19-5101;
   c. Criminal investigators of the Attorney General's Office or a county prosecuting attorney's office; and
   d. Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor.
   e. Law enforcement officials authorized to carry a firearm under federal statute.
3. The term "weapon" means: (1) any type of firearm or (2) any

knife or similar object which has a blade in excess of six (6) inches in length.

4. "Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street); Borah Building (750 West Bannock Street); and the Towers Building (450 West State Street), including all underground tunnels which provide a walkway between these buildings.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-second day of October in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-08

CONTINUING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING AND OVERSIGHT OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM, REPLACING EXECUTIVE ORDER NO. 2000-14

WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS, Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st Century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in developing the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, the development of a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce; and help provide for the most efficient use of federal, state and local workforce development resources;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) of the Workforce Investment Act (WIA) of 1998, as amended.
2. The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal requirements for the nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:
   a. Representatives of business and industry shall comprise at least 40% of the members;
   b. At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;
   c. At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;
   d. Representatives from the Department of Commerce and Labor, the Department of Health & Welfare, the Division of Vocational Rehabilitation, the Division of Vocational Education, the Commission on Aging and the Superintendent of Public Instruction;
   e. A representative of a Community-Based Organization; and
   f. May include individuals from the general public who have special knowledge and qualifications with respect to special education and career development needs of hard to serve individuals.
3. The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:
   a. Development of a statewide strategy for workforce development programs which encompasses all workforce programs;
   b. Development of the WIA State plan;
   c. Development and continuous improvement of services offered under the statewide workforce investment system;
   d. Development of comments at least once annually on the Carl D. Perkins Vocational and Applied Technology Education Act;
   e. Development and continuous improvement of comprehensive State performance measures;
   f. Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;
   g. Development of a statewide employment statistic program;
   h. Development of a plan for comprehensive labor market information; and
   i. Development of applications for an incentive grant under section 503 of the WIA.
4. The Council shall also be responsible for:
   a. Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;
   b. Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and

c. Such other duties as the Governor assigns the Council.

5. The Governor shall name the chair and vice-chair from among the private sector members of the Council;

6. The Council shall be jointly staffed by a management team of directors of state agencies that administer workforce development programs, as designated by the Governor. Funding for the Council shall be provided by the agencies staffing the Council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Commerce and Labor shall have responsibility for providing secretarial and logistical support to the Council;

7. The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of November in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-09

CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY REPLACING EXECUTIVE ORDER NO. 98-12

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing and Finance Association was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in the Executive Order:

(a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(1)(3) of the Code.

(b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.

(c) "Executive Director" means the Executive Director of the Idaho Housing and Finance Association or such other official or officials of the Idaho Housing and Finance Association as the Executive Director shall designate to carry out the duties set forth in this Executive Order.

(d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.

(e) "Idaho Housing and Finance Association" or "Association" means the Idaho Housing and Finance Association, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.

(f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.

(g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

(h) "State" means the State of Idaho.

(i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(1) and Section 42(m) of the Code and in particular the Idaho Housing and Finance Association.

(j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning prior to or after January 1, 2004.

Section 2. The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3. The state has delegated certain responsibilities and granted certain powers to the Idaho Housing and Finance Association in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enter-

prise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4. The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5. The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6. An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7. In consideration of the requirements of the state, the Governor appoints the Idaho Housing and Finance Association to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing and Finance Association is required to:

(a) Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;

(b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.

(c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:

(1) the amount of housing credit allocated to each building for such year,

(2) sufficient information to identify each such building and the taxpayer with respect thereto, and

(3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8. The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.

Section 10. The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11. This Executive Order shall be effective immediately continue the designation of the Idaho Housing and Finance Association as the State Housing Tax Credit Agency since January 1, 1998 and and shall be applied to all allocations made after January 1, 1998, with respect

to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of November in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-10

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986 REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-20

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804 Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 2000-20 providing therefore; and

WHEREAS, in order to renew the provisions contained in said Executive Order No. 2000-20, to amend the allocation formula in order to meet the requirements of said amendments to the State Law and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State law.

(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law including, without limitation, mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.

(3) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.

(4) "Department" means the Department of Commerce and Labor of the State.

(5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.

(6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.

(7) "Issuing Authority" means

(a) any county, city or port district;

(b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;

(c) the State; or

(d) any other entity authorized to issue Bonds in the State.

(8) "Priority Set Aside" means one of the priority set asides established under Section 4(1) hereof.

(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of mortgage credit certificates under Section 25 of the Code.

(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.

(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.

(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.

(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.

(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.

(15) "Year" means each calendar year beginning January 1, 2005.

Section 2. The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Sec-

tion 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3.

(1) Any Issuing Authority proposing to issue Bonds shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:

(a) the name of the Issuing Authority;

(b) the mailing address of the Issuing Authority;

(c) the tax identification number of the Issuing Authority;

(d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;

(e) the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;

(f) the nature, the purpose and the specific location of the Project or the type of Program;

(g) the initial owner or user of the Project or Program, if other than the Issuing Authority;

(h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project or Program;

(i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to mortgage credit certificates under Section 25 of the Code, the anticipated date on which such mortgage credit certificates are expected to be issued;

(j) the name, address, and telephone number of all parties to the transaction;

(k) the applicable provisions of the Code under which the Bonds are expected to be issued; and

(l) such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State;

(m) any other information or attachments reasonably required by the Director.

(2) The Director shall

(a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and

(b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4.

(1) Allocations of Volume Cap shall be made each Year according to the following Priority Set Asides:

(a) qualified small issue manufacturing projects under Section 144(a) of the Code, in an amount between 7% and 13% of the total Allocation Dollars available for the Year as determined by the Director;

(b) single family housing financing through the Idaho Housing and Finance Association under Section 143 of the Code, in an amount between 55% and 80% of the total Allocation Dollars available for the Year as determined by the Director;

(c) multifamily housing, as qualified residential rental projects under Section 142(a)(7) of the Code, in an amount between 0% and 8% of the total Allocation Dollars available for the Year as determined by the Director;

(d) student loan programs through the Education Funding Association of Idaho under Section 144(b) of the Code, in an amount between 0% and 15% of the total Allocation Dollars available for the Year as determined by the Director;

(e) beginning farmer financings, arranged by the Idaho Department of Agriculture under Section 144(a) of the Code, in an amount between 0% and 2% of the total Allocation Dollars available for the Year as determined by the Director;

(f) exempt facilities under Section 142(a) of the Code, other than qualified residential rental projects, in an amount between 0% and 32% of the total Allocation Dollars available for the Year as determined by the Director.

(g) Any qualified uses for Volume Cap not identified above are eligible for allocations in accordance with Section 4(4) below.

(h) Not later than January 31st of each year, subject to the provisions of Section 4(9) hereof, the Director shall determine the amount of Allocation Dollars within each Priority Set Aside, based on the need for, and economic impact of, the Program or Project to be financed under each application and how such expected Program or Project will effectively utilize and efficiently distribute resources throughout the State.

(i) The above Priority Set Asides shall be in effect through August 31 of each Year. Thereafter, allocations shall be made in accordance with Section 4(4) and (5) below. All other potential uses of Volume Cap under the Code, other than those listed in the Priority Set Asides above, may also be allocated on or after September 1 of each Year upon application to the Director as provided in Section 4(4) and (5) below.

(2) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, and if the Director determines that the application demonstrates the need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, the Director will make the requested allocation in the amount so requested, if available under the applicable Priority Set Aside in Section 4(1) above and provided that prior to March 31 of each Year not more than 75% of the total

Volume Cap available for such Year has been allocated to Issuing Authorities for specific Programs or Projects, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director in the chronological order in which completed applications are received within the applicable Priority Set Aside in Section 4(1) above. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.

(3) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of

(a) a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made or any date until December 27 as determined by the Director if the Program is being allocated Volume Cap under a Priority Set Aside which sets aside Allocation Dollars for a specific Issuing Authority [Sections 4(1)(b), 4(1)(d) and 4(1)(e) above] and such Issuing Authority has a Program for Bond issuance to be carried out throughout the Year,

(b) 12:00 o'clock midnight on December 27 of the Year in which such allocation was made, or

(c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.

(4) On and after September 1 of each Year allocations of Volume Cap shall be made to applicants submitting applications by such date for Project(s) or Program(s) that best demonstrate effective utilization, need, economic impact and efficient distribution of resources throughout the State. The Director and the Department may elect not to allocate Volume Cap if an application does not demonstrate a need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State. If qualified applications have not been received by the Department for all remaining Allocation Dollars by September 1 of such Year, then the Department shall continue to receive additional applications until the first of each succeeding month and make allocations on the same basis until all Allocation Dollars have been allocated.

(5) Until and including December 27 of each Year, any allocation of Allocation Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(3) shall be available for reallocation to applying Issuing Authorities. On December 28 of each Year, any allocation of Allocation Dollars made in such Year for which Bonds or Certificates are not issued on or

prior to the applicable date specified in Section 4(3) and any Allocation Dollars for such Year or any Allocation Dollars not allocated under Section 4(4) above shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for allocations of Allocation Dollars on and after September 1 as provided in Section 4(4) above.

(6) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(7) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director, provided there are no pending applications for Volume Cap within the same Priority Set Aside, or if there are other such applications pending, that the application for the allocation being extended best demonstrates the need for, and economic impact of, the Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, and provided further that all other provisions of this Executive Order are complied with.

(8) In the event that the Director is uncertain whether an application meets the requirements set forth in 4(2) or 4(4) above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.

(9) In the case of an application filed prior to the date when the Director makes an allocation under 4(1)(h) above for an allocation from a Priority Set Aside which provides for a minimum percent of Allocation Dollars and sets forth a specific Issuing Authority to receive the Priority Set Aside [specifically, Priority Set Asides 4(1)(b), 4(1)(d) and 4(1)(e)], the Director may, and, at the request of the Issuing Authority, shall, make an allocation of that Year's Allocation Dollars in an amount not to exceed the minimum percentage stated for the Priority Set Aside prior to the date the Director has set for determination of allocations under 4(1)(h) but in no event later than 15 days after the date such application is filed.

Section 5.

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

(a) the carryforward purpose for the Bonds under Section 146(f) of the Code;

(b) any other information required by Section 146(f) of the Code;

(c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing mortgage credit certificates under Section 25 of the Code, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in accordance with the provisions of Section 4(4), granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in accordance with the provisions of Section 4(5). The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.

Section 6. No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such

consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7.

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds without a certificate or allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 27 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of

(A) the final decision not to issue all or a stated portion of such Bonds or Certificates or

(B) the expiration of the allocation, or

(ii) December 27 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or

Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8. In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(1) determine the amount of Allotment Dollars available on December 28 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;

(2) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;

(3) maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;

(4) maintain a record of all information filed by Issuing Authorities under this Executive Order;

(5) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available or at any time remaining available, for allocation under this Executive Order;

(6) the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and

(7) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9. If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10. This Executive Order replaces Executive Order No 2000-20 which is hereby repealed, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11. The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13. The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14. This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of November in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-11

MEMORIALIZING THE SERVICE OF RICHARD W. JONES, ADMINISTRATOR OF VETERANS SERVICES AND DEDICATING THE SECURE CARE UNIT WITHIN THE IDAHO STATE VETERANS HOME LOCATED AT 320 COLLINS ROAD, IN THE CITY OF BOISE, ADA COUNTY, IDAHO, IN HIS HONOR

WHEREAS, Richard W. Jones as Administrator of Veterans Services has had a distinguished public service career with the State of Idaho; and

WHEREAS, he has been an unwavering advocate and leader for Idaho's veterans; and

WHEREAS, his steadfast leadership and commitment to Idaho veterans brought unity and direction to the Division of Veteran Services; and

WHEREAS, he oversaw the building of the Secure Care Unit in the Idaho State Veterans Home, the remodeling of the Idaho Veterans Home in Boise, the addition of the Activities Wing at the Pocatello Veterans Home, and the construction of the Idaho Veterans Cemetery; and

WHEREAS, his dedication to our state and veterans is worthy of lasting recognition and to preserve his place in Idaho's distinguished history;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order that the Secure Care Unit of the Idaho State Veterans Home in the City of Boise be named in honor of Richard W. Jones and that a plaque commemorating his service to our state be placed therein.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-third day of December in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2004-12

AUTHORIZING THE CONTINUATION OF THE "CLICK IT, DON'T RISK IT!" CAMPAIGN

WHEREAS, the Idaho Transportation Department is charged with administering highway safety programs -- including the use of safety restraints -- for the state of Idaho through the Office of Traffic and Highway Safety; and

WHEREAS, Idaho is concerned with the education about safety restraints; and

WHEREAS, Idaho's current theme, Click It, Don't Risk It!, has helped Idaho increase seatbelt usage from 63 percent to 74 percent since its inception two years ago; and

WHEREAS, Idaho has a substantial investment in Click It, Don't Risk It!; and

WHEREAS, the Click It, Don't Risk It! logo is used extensively on all educational materials and continues to provide valuable recognition for Idaho's seatbelt usage promotional programs; and

WHEREAS, the Click It, Don't Risk It! theme is used statewide by the Idaho Transportation Department's highway safety partners including public health districts, insurance companies, hospitals, drivers education instructors, emergency medical service providers, and law enforcement officers and agencies;

NOW, THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by the authority vested in me under the constitution and laws of this state do hereby order that Idaho will continue to use the Click It, Don't Risk It! for the annual May Mobilization effort to educate and encourage Idahoans to use safety restraints.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of December in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2005-01

ESTABLISHING A CRIMINAL JUSTICE COMMISSION FOR OVERSIGHT OF THE STATE'S CRIMINAL JUSTICE SYSTEM

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, encourage dialogue among the respective branches of government to achieve this effectiveness and efficiency; and

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government; and

WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness; and

WHEREAS, providing policy makers and criminal justice decision makers with accurate information results in better decisions which improves public safety and results in the efficient use of public resources; and

WHEREAS, the continued growth of the State's adult incarcerated offender population necessitates more in-depth analysis of the State's criminal justice system; and

WHEREAS, gang violence and the manufacturing, trafficking and abuse of methamphetamine are critical issues that plague communities across the state and are a drain on state and local resources; and

WHEREAS, Idaho's current criminal justice efforts and initiatives require clear strategic planning and increased coordination;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby establish the Idaho Criminal Justice Commission.

1. The Idaho Criminal Justice Commission (the "Commission") shall consist of 20 members. The Commission's membership shall be as follows:
   a. A representative from the Governor's Office;
   b. The Attorney General or his or her designee;
   c. The Chair of the Senate Judiciary and Rules Committee;

d. The Chair of the House Judiciary, Rules and Administration Committee;
e. The Director of the Idaho Department of Correction;
f. The Director of the Idaho State Police;
g. The Director of the Idaho Department of Juvenile Corrections;
h. The Executive Director of the Idaho Commission of Pardons and Parole;
i. The Director of the Idaho Department of Health and Welfare;
j. Four (4) representatives of the judiciary as designated by the Chief Justice, including a Supreme Court Justice, Court of Appeals Judge, District Judge and Magistrate Judge;
k. One (1) representative from the Idaho Prosecuting Attorneys Association;
l. One (1) representative from the Office of the Idaho State Appellate Public Defender;
m. One (1) representative from the Idaho Sheriffs' Association;
n. One (1) representative from the Idaho Chiefs of Police Association;
o. Three (3) citizens-at-large

2. The purpose of the Commission shall be to provide policy-level direction and to promote efficient and effective use of resources for matters related to the State's criminal justice system. To that end it shall:
   a. Identify critical problems within the criminal justice system and recommend strategies to solve these problems;
      i. Areas to be addressed include, but are not limited to:
         1. Continued growth in the adult incarcerated offender population;
         2. The manufacturing, trafficking and abuse of methamphetamine;
         3. Gang violence;
   b. Advise and develop recommendations for the Governor and the Legislature, when appropriate, on public policy and strategies to improve the State's criminal justice system;
   c. Review and evaluate criminal justice policies and proposed legislation to determine impact on the State's adult and juvenile justice systems;
   d. Promote communication among criminal justice professionals and the respective branches of state government to improve professionalism, create partnerships, and to improve cooperation and coordination at all levels of the criminal justice system.
   e. Research best practices of other states;
   f. Analyze the long-range needs of the criminal justice system, including an assessment of the cost-effectiveness of the use of state and local funds in the criminal justice system;

g. Partner with Idaho's college and universities to conduct research, planning and analysis activities, including studies that analyze a variety of crime trends and criminal justice issues.

3. The Criminal Justice Commission members shall be appointed and serve at the pleasure of the Governor.
4. The Commission members shall serve a term of 4 years, with the only exception being the inaugural membership being appointed to serve staggering two (2), three (3) and four (4) year terms.
5. The Chair of the Commission shall be appointed annually by the Governor. A Vice-Chair shall be selected annually by the members of the Commission. The term of office for the Chair and Vice-Chair shall be one year. The Chair and Vice-Chair may succeed themselves if approved by the Governor.
6. The Criminal Justice Commission shall receive administrative staff support from the state agencies represented on the Commission.
7. The Criminal Justice Commission will meet no less than four times annually.
8. The Criminal Justice Commission may appoint sub-committees consistent with the needs of the Commission to pertinent issues that merit more in-depth consideration.
9. Commission members will serve without compensation or reimbursement for expenses, including related travel and per diem to attend Commission meetings.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this tenth day of January in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2005-02

AUTHORIZING THE ESTABLISHMENT OF THE IDAHO MOTORCYCLE SAFETY ADVISORY COUNCIL

WHEREAS, Idaho has experienced a nearly thirty-five percent (35%) increase in total traffic volume on Idaho's highways between 1992 and 2003; and

WHEREAS, Idaho has experienced a twenty-seven percent (27%) increase

in motorcycle registrations between 1992 and 2003; and

WHEREAS, Idaho has experienced 4,396 motorcycle collisions and 180 motorcycle related fatalities between 1992 and 2003; and

WHEREAS, the Office of the Governor, the Idaho STAR Motorcycle Advisory Committee, the Idaho Transportation Department, the Idaho State Police and representatives from the Idaho Coalition for Motorcycle Safety, Idaho Harley Owners Group, Gold Wing Road Riders Association, and BMW Motorcycle Owners Association perceive a need to improve motorcycle rider safety and reduce the number of motorcycle collisions and fatalities through improvements in design, construction and maintenance standards for Idaho's roadways; and

WHEREAS, expertise exists within the state that includes individuals knowledgeable and experienced in the issues of motorcycle safety and roadway operations;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order that:

1. The Idaho Motorcycle Safety Advisory Council is established. The Council shall:
   a. Identify motorcycle safety issues related to the physical characteristics of Idaho's roadways; and
   b. Research potential solutions to the identified motorcycle safety issues and determine their associated costs; and
   c. Develop recommendations from the potential solutions and report those recommendations to the Governor and to the Idaho Transportation Board at least once each year.
2. The Council's membership shall be as follows:
   a. One (1) representative from the Idaho Transportation Department;
   b. One (1) representative from the Idaho State Police;
   c. One (1) representative of the Idaho STAR Advisory Committee;
   d. One (1) representative from the Idaho Coalition for Motorcycle Safety;
   e. One (1) representative from the Idaho Harley Owners Group;
   f. One (1) representative from the Gold Wing Road Riders Association;
   g. One (1) representative from the BMW Motorcycle Owners Association;
   h. One (1) representative from the Local Highway Technical Assistance Council.
3. Council members shall serve a term of 4 years, with the exception of the inaugural membership being appointed to serve staggering two (2), three (3) and four (4) year terms.
4. Council members shall be nominated by the organizations they represent and approved by the Governor.
5. The Council may recommend additional members to the Governor as they deem appropriate and may establish subcommittees consistent with the needs of the Council.
6. The Council members shall elect a Chairperson and Vice-Chairperson from among their members.
7. The Council shall meet at least four (4) times per year as determined by the Chair and Vice-Chair.
8. The Council members will serve without compensation or reim-

bursement for expenses, including related travel and per diem to attend council meetings.

9. The Council shall receive administrative and technical staff support from the Idaho Transportation Department.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourteenth day of January in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2005-03

CONTINUATION OF THE IDAHO COUNCIL FOR PURCHASES FROM PEOPLE WITH SEVERE DISABILITIES REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-11

WHEREAS, it is in the public interest to promote employment opportunities for people with severe disabilities; and

WHEREAS, the private non-profit community rehabilitation programs of Idaho strive to provide employment opportunities for people with severe disabilities; and

WHEREAS, the Idaho Code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by people with severe disabilities participating in private non-profit community rehabilitation programs in Idaho;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuation of the Idaho Council for Purchases from People with Severe Disabilities, as follows:

1) The Council's responsibilities will be:

* To promote the purchase by state agencies of goods and services produced by people with severe disabilities in private non-profit community rehabilitation programs under the auspices of Section 67-2319, Idaho Code;
* To conduct monitoring and study the implementation of the purchasing program authorized by said Section 67-2319;
* To designate a central non-profit organization to coordinate the participation of private non-profit community rehabilitation programs in the Idaho purchasing program and develop procedures for such participation;
* To advise the Division of Purchasing on the development and operation of a program to purchase products and ser-

vices from people with severe disabilities in private non-profit community rehabilitation programs; and

* To provide an annual report of activities, products, services, employment opportunities, and other benefits derived from this program.

2) The Governor shall appoint members of the Council comprised of a representative from a private non-profit community rehabilitation program, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, and at least one other State Agency. Each member of the Council shall serve for a term of 3 years. Members of the council shall select a chair from among their number.

3) The Council shall be administratively supported by the Division of Vocational Rehabilitation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this first day of February in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2005-04

RENEWING THE CERTIFIED PUBLIC MANAGER PROGRAM REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-18

WHEREAS, the State of Idaho recognizes the value of investing in its human resources; and,

WHEREAS, the government agencies of Idaho have identified as critical the need for management development initiatives and to support and provide for successful workforce planning; and,

WHEREAS, management development should be viewed as an integral tool to improve productivity and service delivery to the citizens of Idaho; and,

WHEREAS, Idaho government agencies will benefit from the application of a comprehensive set of management principles and best practices; and

WHEREAS, the State of Idaho's leadership has placed a priority on the use of management knowledge and skills; and,

WHEREAS, the Division of Human Resources and the Center for Public Policy and Administration at Boise State University will develop and use a nationally recognized management development curriculum; and,

WHEREAS, the Certified Public Manager program is an accepted standard and has proven its value in a significant number of states,

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho by the authority vested in me under the Constitution and laws of this state do hereby renew the:

CERTIFIED PUBLIC MANAGER PROGRAM

as a preferred management development program for the State of Idaho and, thereby, actively encourage the participation of state agencies in the development of government managers to enhance the quality and productivity of services delivered to the citizens of Idaho.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this first day of February in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

/s/ DIRK KEMPTHORNE
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

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Assn = Association
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
DEQ = Department of Environmental Quality
Dist = District
F&G = Fish and Game
H&W = Health and Welfare
PUC = Public Utilities Com
PERSI = Public Employee Retirement System of Idaho
UCC = Uniform Commercial Code
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25-3507	Am & Redesig 25-3707(added Ch.73/Laws1994)	Ch. 25 - 96
25-3508	Am & Redesig 25-3608(added Ch.72/Laws1994)	Ch. 25 - 95
25-3509	Am & Redesig 25-3709(added Ch.73/Laws1994)	Ch. 25 - 97
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25-3601	Redesignated from 25-3501	Ch. 25 - 94
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25-3606	Redesignated from 25-3506	Ch. 25 -	95
25-3607	Redesignated from 25-3507	Ch. 25 -	95
25-3608	Redesignated from 25-3508	Ch. 25 -	95
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25-3703	Redesignated from 25-3503	Ch. 25 -	96
25-3705	Redesignated from 25-3505	Ch. 25 -	96
25-3707	Redesignated from 25-3507	Ch. 25 -	96
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26-2501	Amended	Ch.265 -	826
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26-2914	Amended	Ch.142 -	438
26-2915	Amended	Ch.142 -	439
26-2916	Amended	Ch.142 -	439
26-2917	Amended	Ch.142 -	440
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26-3102	Amended	Ch.262 -	806
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26-3701	New Section Added	Ch.265 -	816
26-3702	New Section Added	Ch.265 -	816
26-3703	New Section Added	Ch.265 -	816
26-3704	New Section Added	Ch.265 -	817
26-3705	New Section Added	Ch.265 -	817
26-3706	New Section Added	Ch.265 -	819
26-3707	New Section Added	Ch.265 -	821
26-3708	New Section Added	Ch.265 -	822
26-3709	New Section Added	Ch.265 -	822
26-3710	New Section Added	Ch.265 -	822
26-3711	New Section Added	Ch.265 -	823
26-3712	New Section Added	Ch.265 -	823
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28-9-205	Referred to	Ch.372 -	1192
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28-23-102	Amended	Ch.238 -	731
28-23-105	Amended	Ch.238 -	733
28-23-106	Amended	Ch.238 -	733
28-23-108	Amended	Ch.238 -	734
28-24-102	Amended	Ch.238 -	734
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28-41-301 Referred to..... Ch.265 - 810
28-41-302 Amended..... Ch.263 - 808
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28-50-101 Am&Redesig 28-51-101(added Ch.422/Laws2000). Ch. 25 - 97
28-50-102 Am&Redesig 28-51-102(added Ch.422/Laws2000). Ch. 25 - 98
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30-3-27 Amended..... Ch.272 - 838
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30-902 New Section Added..... Ch.236 - 717
30-903 New Section Added..... Ch.236 - 718
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30-904 New Section Added..... Ch.236 - 718
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30-905 New Section Added..... Ch.236 - 718
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30-906 New Section Added..... Ch.236 - 719
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30-915 New Section Added..... Ch.236 - 723
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31-A3506	Am & Redesig 31-3555(added Ch.189/Laws1982)	Ch. 25 - 100
31-A3507	Am & Redesig 31-3556(added Ch.189/Laws1982)	Ch. 25 - 100
31-A3508	Am & Redesig 31-3557(added Ch.189/Laws1982)	Ch. 25 - 100
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33-1003A Am&Redesig 33-1003B(added Ch.321/Laws1995).. Ch. 25 - 101
33-1003A Am&Redesig 33-1003B(added Ch.321/Laws1995).. Ch.257 - 793
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33-1508	Amended	Ch. 88 - 305
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33-4801	Am & Redesig 33-4901(added Ch.234/Laws1994)	Ch. 25 - 101
33-4802	Am & Redesig 33-4902(added Ch.234/Laws1994)	Ch. 25 - 101
33-4803	Am & Redesig 33-4903(added Ch.234/Laws1994)	Ch. 25 - 102
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39-118 Amended..... Ch.321 - 988
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39-1301A	Referred to	Ch.280 - 899
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39-3376	Repealed	Ch.280 - 880
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39-3501	New Section Added	Ch.280 - 899
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39-3503	Repealed	Ch.280 - 880
39-3504	Redesignated from 39-3578	Ch.280 - 911
39-3504	Repealed	Ch.280 - 880
39-3505	Redesignated from 39-3561	Ch.280 - 908
39-3505	Repealed	Ch.280 - 880
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39-3508	Amended	Ch.280 - 903
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39-3510	Redesignated from 39-3579	Ch.280 - 911
39-3510	Repealed	Ch.280 - 880
39-3511	New Section Added	Ch.280 - 904
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39-3546	Repealed	Ch.280 - 880
39-3547	Repealed	Ch.280 - 880
39-3548	Repealed	Ch.280 - 880
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39-3550	Repealed	Ch.280 - 880
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54-1926A	Amended	Ch.213 - 665
Ch.20	Referred to	Ch.153 - 474
54-2004	Amended	Ch.107 - 334
54-2012	Amended	Ch.107 - 338
54-2013	Amended	Ch.106 - 333
54-2015	Amended	Ch.105 - 329
54-2016	Amended	Ch.105 - 330
54-2016	Amended	Ch.107 - 340
54-2017	Repealed	Ch.105 - 332
54-2018	Amended	Ch.107 - 342
54-2019	Amended	Ch.107 - 344
54-2023	Amended	Ch.107 - 345
54-2025	Amended	Ch.107 - 347
54-2027	Amended	Ch.107 - 348
54-2032	Amended	Ch.107 - 350
54-2033	Amended	Ch.107 - 350
54-2036	Amended	Ch.107 - 351
54-2041	Amended	Ch.107 - 352
54-2042	Amended	Ch.107 - 352
54-2043	Amended	Ch.107 - 353
54-2056	Amended	Ch.107 - 354
54-2062	Amended	Ch.107 - 355
54-2203	Amended	Ch.185 - 568
54-2203	Referred to	Ch.329 - 1029
54-2205	Amended	Ch.185 - 569
54-2213	Amended	Ch.184 - 567
54-2214	Amended	Ch.184 - 568
54-2219	Amended	Ch.185 - 571
54-2411	Amended	Ch. 87 - 305
54-2505	Amended	Ch.264 - 809
54-2514A	Amended	Ch.222 - 698
Ch.26	Referred to	Ch.153 - 472
54-2607	Amended	Ch. 25 - 123
54-2901	New Section Added	Ch.277 - 852
54-2901	Repealed	Ch.277 - 852

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54-2902	New Section Added	Ch.277 -	852
54-2902	Repealed	Ch.277 -	852
54-2903	New Section Added	Ch.277 -	853
54-2903	Repealed	Ch.277 -	852
54-2904	New Section Added	Ch.277 -	854
54-2904	Repealed	Ch.277 -	852
54-2905	New Section Added	Ch.277 -	855
54-2906	New Section Added	Ch.277 -	856
54-2906	Repealed	Ch.277 -	852
54-2907	Amended	Ch. 38 -	157
54-2907	New Section Added	Ch.277 -	856
54-2907	Repealed	Ch.277 -	852
54-2908	New Section Added	Ch.277 -	857
54-2908	Repealed	Ch.277 -	852
54-2909	New Section Added	Ch.277 -	858
54-2909	Repealed	Ch.277 -	852
54-2910	New Section Added	Ch.277 -	858
54-2910	Repealed	Ch.277 -	852
54-2911	New Section Added	Ch.277 -	859
54-2911	Repealed	Ch.277 -	852
54-2912	New Section Added	Ch.277 -	859
54-2912	Repealed	Ch.277 -	852
54-2913	New Section Added	Ch.277 -	860
54-2913	Repealed	Ch.277 -	852
54-2914	New Section Added	Ch.277 -	860
54-2914	Repealed	Ch.277 -	852
54-2915	New Section Added	Ch.277 -	861
54-2915	Repealed	Ch.277 -	852
54-2916	New Section Added	Ch.277 -	862
54-2917	New Section Added	Ch.277 -	862
54-2917	Repealed	Ch.277 -	852
54-2918	New Section Added	Ch.277 -	862
54-2918	Repealed	Ch.277 -	852
54-2919	New Section Added	Ch.277 -	863
54-2919	Repealed	Ch.277 -	852
54-2920	New Section Added	Ch.277 -	863
54-2920	Repealed	Ch.277 -	852
54-2921	New Section Added	Ch.277 -	863
54-2922	New Section Added	Ch.277 -	863
54-2923	New Section Added	Ch.277 -	863
54-2924	New Section Added	Ch.277 -	865
54-2925	New Section Added	Ch.277 -	866
54-2926	New Section Added	Ch.277 -	866
54-2927	New Section Added	Ch.277 -	866
54-3102	Amended	Ch. 84 -	299
54-3108	Amended	Ch. 84 -	299
54-3109	Amended	Ch. 84 -	300
54-3110	Amended	Ch. 84 -	300
54-3111	Amended	Ch. 84 -	300
54-3405	Amended	Ch. 46 -	175
54-3405B	Repealed	Ch. 46 -	175
54-3405C	Amended	Ch. 46 -	175
54-3408	Amended	Ch. 46 -	177

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54-3411	Amended	Ch. 46 - 178
54-3604	Amended	Ch.320 - 987
54-3610	Amended	Ch.335 - 1052
Ch.38	Heading Redesignated from Ch.39	Ch. 25 - 124
54-3801	Redesignated from 54-3901	Ch. 25 - 124
54-3802	Redesignated from 54-3902	Ch. 25 - 125
54-3803	Redesignated from 54-3903	Ch. 25 - 125
54-3804	Redesignated from 54-3904	Ch. 25 - 126
54-3805	Redesignated from 54-3905	Ch. 25 - 126
Ch.39	Am & Redesig Ch.38(added Ch.138/Laws1989)	Ch. 25 - 124
54-3901	Am & Redesig 54-3801(added Ch.138/Laws1989)	Ch. 25 - 124
54-3902	Am & Redesig 54-3802(added Ch.138/Laws1989)	Ch. 25 - 125
54-3903	Am & Redesig 54-3803(added Ch.138/Laws1989)	Ch. 25 - 125
54-3904	Am & Redesig 54-3804(added Ch.138/Laws1989)	Ch. 25 - 126
54-3905	Am & Redesig 54-3805(added Ch.138/Laws1989)	Ch. 25 - 126
54-4407	Amended	Ch.391 - 1314
Ch.45	Am & Redesig Ch.46(added Ch.33/Laws1998)	Ch. 25 - 127
Ch.45	Referred to	Ch.153 - 472
54-4501	Am & Redesig 54-4601(added Ch.33/Laws1998)	Ch. 25 - 127
54-4503	Amended	Ch.213 - 666
54-4504	Am & Redesig 54-4604(added Ch.33/Laws1998)	Ch. 25 - 127
54-4508	Amended	Ch.213 - 667
Ch.46	Heading Redesignated from Ch.45	Ch. 25 - 127
54-4601	Redesignated from 54-4501	Ch. 25 - 127
54-4604	Redesignated from 54-4504	Ch. 25 - 127
Ch.50	Referred to	Ch.153 - 472
54-5002	Amended	Ch. 54 - 207
54-5006	Amended	Ch. 54 - 208
54-5101	New Section Added	Ch.143 - 441
54-5101	New Section Added	Ch.329 - 1026
54-5102	New Section Added	Ch.143 - 441
54-5102	New Section Added	Ch.329 - 1026
54-5103	New Section Added	Ch.143 - 442
54-5103	New Section Added	Ch.329 - 1027
54-5104	New Section Added	Ch.143 - 442
54-5104	New Section Added	Ch.329 - 1028
54-5105	New Section Added	Ch.143 - 443
54-5105	New Section Added	Ch.329 - 1028
54-5106	New Section Added	Ch.143 - 443
54-5106	New Section Added	Ch.329 - 1029
54-5107	New Section Added	Ch.143 - 443
54-5107	New Section Added	Ch.329 - 1029
54-5108	New Section Added	Ch.143 - 444
54-5108	New Section Added	Ch.329 - 1030
54-5109	New Section Added	Ch.143 - 445
54-5109	New Section Added	Ch.329 - 1030
54-5110	New Section Added	Ch.143 - 446
54-5110	New Section Added	Ch.329 - 1031
54-5111	New Section Added	Ch.143 - 446
54-5111	New Section Added	Ch.329 - 1032
54-5112	New Section Added	Ch.143 - 447
54-5112	New Section Added	Ch.329 - 1032
54-5113	New Section Added	Ch.143 - 447

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54-5113	New Section Added	Ch.329 - 1032
54-5114	New Section Added	Ch.143 - 447
54-5114	New Section Added	Ch.329 - 1032
54-5115	New Section Added	Ch.143 - 448
54-5115	New Section Added	Ch.329 - 1033
54-5116	New Section Added	Ch.143 - 448
54-5116	New Section Added	Ch.329 - 1033
54-5117	New Section Added	Ch.143 - 448
54-5117	New Section Added	Ch.329 - 1033
54-5118	New Section Added	Ch.329 - 1034
54-5201	New Section Added	Ch.153 - 471
54-5202	New Section Added	Ch.153 - 471
54-5203	New Section Added	Ch.153 - 471
54-5204	New Section Added	Ch.153 - 472
54-5205	New Section Added	Ch.153 - 472
54-5206	New Section Added	Ch.153 - 474
54-5207	New Section Added	Ch.153 - 475
54-5208	New Section Added	Ch.153 - 476
54-5209	New Section Added	Ch.153 - 476
54-5210	New Section Added	Ch.153 - 476
54-5211	New Section Added	Ch.153 - 477
54-5212	New Section Added	Ch.153 - 477
54-5213	New Section Added	Ch.153 - 478
54-5214	New Section Added	Ch.153 - 478
54-5215	New Section Added	Ch.153 - 478
54-5216	New Section Added	Ch.153 - 480
54-5217	New Section Added	Ch.153 - 480
54-5218	New Section Added	Ch.153 - 480
54-5219	New Section Added	Ch.153 - 480

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55-403	Amended	Ch.217 - 691
55-403A	Repealed	Ch.217 - 692
55-810	Amended	Ch.243 - 761
55-1512	Amended	Ch.110 - 362
55-1910	Amended	Ch.243 - 761
Ch.27	Am & Redesig Ch.28(added Ch.335/Laws1998)	Ch. 25 - 128
55-2701	Am & Redesig 55-2801(added Ch.335/Laws1998)	Ch. 25 - 128
55-2702	Am & Redesig 55-2802(added Ch.335/Laws1998)	Ch. 25 - 128
55-2703	Am & Redesig 55-2803(added Ch.335/Laws1998)	Ch. 25 - 128
Ch.28	Heading Redesignated from Ch.27	Ch. 25 - 128
55-2801	Redesignated from 55-2701	Ch. 25 - 128
55-2802	Redesignated from 55-2702	Ch. 25 - 128
55-2803	Redesignated from 55-2703	Ch. 25 - 128

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56-118	New Section Added	Ch. 86 - 304
56-136	Referred to	Ch.371 - 1186
56-209d	Amended	Ch.294 - 933
56-218	Amended	Ch.304 - 951
56-1004A	New Section Added	Ch.312 - 970
56-1011 thru 56-1018B	Referred to	Ch.163 - 499
56-1015	Amended	Ch.120 - 393
56-1019	Referred to	Ch.347 - 1080

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Ch.12	Am & Redesig Ch.13(added Ch.261/Laws2004)...	Ch. 25 - 129
56-1201	Am & Redesig 56-1301(added Ch.261/Laws2004).	Ch. 25 - 129
56-1202	Am & Redesig 56-1302(added Ch.261/Laws2004).	Ch. 25 - 129
56-1203	Am & Redesig 56-1303(added Ch.261/Laws2004).	Ch. 25 - 129
56-1204	Am & Redesig 56-1304(added Ch.261/Laws2004).	Ch. 25 - 130
56-1205	Am & Redesig 56-1305(added Ch.261/Laws2004).	Ch. 25 - 130
56-1206	Am & Redesig 56-1306(added Ch.261/Laws2004).	Ch. 25 - 130
Ch.13	Heading Redesignated from Ch.12.....	Ch. 25 - 129
56-1301	Redesignated from 56-1201.....	Ch. 25 - 129
56-1302	Redesignated from 56-1202.....	Ch. 25 - 129
56-1303	Redesignated from 56-1203.....	Ch. 25 - 129
56-1304	Redesignated from 56-1204.....	Ch. 25 - 130
56-1305	Redesignated from 56-1205.....	Ch. 25 - 130
56-1306	Redesignated from 56-1206.....	Ch. 25 - 130
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57-232	Am & Redesig 57-234(added Ch.208/Laws2001)..	Ch. 25 - 131
57-234	Redesignated from 57-232.....	Ch. 25 - 131
57-504	Referred to.....	Ch.392 - 1318
57-820	New Section Added.....	Ch.104 - 329
TITLE 58		
58-335A	Amended.....	Ch.100 - 319
58-406	Amended.....	Ch.162 - 497
TITLE 59		
59-208	Amended.....	Ch.214 - 686
59-210	New Section Added.....	Ch.214 - 686
59-502	Amended.....	Ch.399 - 1362
59-509	Referred to.....	Ch. 53 - 195
59-509	Referred to.....	Ch.143 - 445
59-509	Referred to.....	Ch.153 - 475
59-509	Referred to.....	Ch.159 - 491
59-509	Referred to.....	Ch.185 - 570
59-509	Referred to.....	Ch.234 - 715
59-509	Referred to.....	Ch.277 - 858
59-1026	New Section Added.....	Ch.213 - 668
59-1026	Repealed.....	Ch.213 - 668
59-1303	Amended.....	Ch. 91 - 308
59-1305	Amended.....	Ch. 90 - 307
59-1311	Referred to.....	Ch.147 - 460
59-1315	Amended.....	Ch. 89 - 306
TITLE 60		
60-106	Referred to.....	Ch.191 - 592
60-107	Referred to.....	Ch.191 - 592
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Title 61	Referred to.....	Ch.153 - 473
Title 61	Referred to.....	Ch.200 - 607
Ch.1	Referred to.....	Ch.372 - 1188
61-119	Referred to.....	Ch. 53 - 200
61-129	Referred to.....	Ch. 53 - 200
61-201	Referred to.....	Ch. 53 - 193
61-201	Referred to.....	Ch.189 - 578
61-302	Referred to.....	Ch.189 - 580
61-332A	Referred to.....	Ch.189 - 579

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Ch.6	Referred to	Ch.372 - 1189
61-801	New Section Added	Ch.189 - 578
61-802	New Section Added	Ch.189 - 578
61-803	New Section Added	Ch.189 - 579
61-804	New Section Added	Ch.189 - 579
61-805	New Section Added	Ch.189 - 580
61-806	New Section Added	Ch.189 - 581
61-807	New Section Added	Ch.189 - 581
61-808	New Section Added	Ch.189 - 581
61-809	New Section Added	Ch.189 - 581
Ch.9	Referred to	Ch.372 - 1187
61-901 thru 61-908	Referred to	Ch.372 - 1191
61-1601	New Section Added	Ch.372 - 1186
61-1602	New Section Added	Ch.372 - 1187
61-1603	New Section Added	Ch.372 - 1188
61-1604	New Section Added	Ch.372 - 1189
61-1605	New Section Added	Ch.372 - 1189
61-1606	New Section Added	Ch.372 - 1190
61-1607	New Section Added	Ch.372 - 1191
61-1608	New Section Added	Ch.372 - 1193
61-1609	New Section Added	Ch.372 - 1194
61-1610	New Section Added	Ch.372 - 1194
61-1611	New Section Added	Ch.372 - 1194

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62-604	Amended	Ch.200 - 605
62-605	Amended	Ch.200 - 606
62-607A	New Section Added	Ch.200 - 608
62-616A	New Section Added	Ch.200 - 608
62-617	Amended	Ch.200 - 608
62-622A	New Section Added	Ch.200 - 609

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63-119	New Section Added	Ch. 30 - 141
63-217	Referred to	Ch.369 - 1177
63-217	Referred to	Ch.370 - 1185
63-301A	Referred to	Ch.370 - 1185
63-501	Referred to	Ch.370 - 1185
63-602G	Amended	Ch.283 - 919
63-602HH	New Section Added	Ch.279 - 877
63-602HH	New Section Added	Ch.284 - 922
63-602W	Referred to	Ch. 24 - 75
63-604	Amended	Ch.271 - 835
63-606A	New Section Added	Ch.370 - 1185
63-701	Amended	Ch. 31 - 143
63-701	Amended	Ch.241 - 749
63-701	Amended	Ch.280 - 912
63-802	Amended	Ch.178 - 549
63-1701	Amended	Ch. 24 - 74
63-1705	Amended	Ch. 24 - 75
63-2401	Amended	Ch.293 - 931
63-2406A	Repealed	Ch. 28 - 139
63-2412	Referred to	Ch.249 - 772
63-2421	Amended	Ch. 28 - 139

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63-2506	Amended	Ch.404 - 1377
63-2506	Referred to	Ch.322 - 992
63-2509	Amended	Ch.404 - 1378
63-2520	Amended	Ch.404 - 1378
63-2552A	Referred to	Ch.322 - 992
Ch.29	Referred to	Ch.370 - 1178
63-2901	New Section Added	Ch.369 - 1169
63-2902	New Section Added	Ch.369 - 1169
63-2903	New Section Added	Ch.369 - 1172
63-2904	New Section Added	Ch.369 - 1172
63-2905	New Section Added	Ch.369 - 1173
63-2906	New Section Added	Ch.369 - 1173
63-2907	New Section Added	Ch.369 - 1174
63-2908	New Section Added	Ch.369 - 1175
63-2909	New Section Added	Ch.369 - 1175
63-2910	New Section Added	Ch.369 - 1176
Ch.30	Referred to	Ch.369 - 1170
Ch.30	Referred to	Ch.370 - 1178
63-3004	Amended	Ch. 14 - 41
63-3009	Referred to	Ch.370 - 1181
63-3022	Amended	Ch. 14 - 42
63-3022F	New Section Added	Ch. 16 - 47
63-3022H	Amended	Ch.208 - 624
63-3024	Referred to	Ch.369 - 1172
63-3024	Referred to	Ch.370 - 1181
63-3025	Referred to	Ch.369 - 1172
63-3025	Referred to	Ch.370 - 1181
63-3025A	Referred to	Ch.369 - 1172
63-3025A	Referred to	Ch.370 - 1181
63-3026A	Amended	Ch. 21 - 57
63-3026A	Amended	Ch.405 - 1380
63-3027	Referred to	Ch.369 - 1172
63-3027	Referred to	Ch.370 - 1181
63-3029B	Amended	Ch. 23 - 61
63-3029B	Referred to	Ch.284 - 923
63-3029B	Referred to	Ch.355 - 1124
63-3029B	Referred to	Ch.369 - 1171
63-3029B	Referred to	Ch.370 - 1180
63-3029E	Amended	Ch. 23 - 64
63-3029F	Amended	Ch. 23 - 65
63-3029F	Referred to	Ch.369 - 1173
63-3029F	Referred to	Ch.370 - 1182
63-3029I	Amended	Ch. 23 - 66
63-3033	Amended	Ch. 23 - 69
63-3035	Referred to	Ch.369 - 1171
63-3035	Referred to	Ch.370 - 1180
63-3036	Amended	Ch. 23 - 70
63-3038	Referred to	Ch.369 - 1177
63-3038	Referred to	Ch.370 - 1185
63-3039	Referred to	Ch.369 - 1177
63-3039	Referred to	Ch.370 - 1185
63-3042 thru 63-3067	Referred to	Ch.369 - 1177

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63-3042 thru 63-3067	Referred to	Ch.370 - 1185
63-3045	Referred to	Ch.369 - 1174
63-3045	Referred to	Ch.370 - 1183
63-3049	Amended	Ch. 17 - 47
63-3061A	New Section Added	Ch. 22 - 60
63-3065	Amended	Ch. 30 - 142
63-3067	Amended	Ch.369 - 1177
63-3067A	Amended	Ch.104 - 328
63-3068	Amended	Ch. 23 - 71
63-3068	Referred to	Ch.369 - 1174
63-3068	Referred to	Ch.370 - 1183
63-3071	Referred to	Ch.369 - 1177
63-3071	Referred to	Ch.370 - 1185
63-3074 thru 63-3078	Referred to	Ch.369 - 1177
63-3074 thru 63-3078	Referred to	Ch.370 - 1185
63-3201 thru 63-3204	Referred to	Ch.361 - 1148
Ch.36	Referred to	Ch.369 - 1175
Ch.36	Referred to	Ch.370 - 1184
63-3622D	Amended	Ch.242 - 754
63-3622II	Redesignated from 63-3622Y	Ch. 25 - 131
63-3622K	Amended	Ch. 15 - 44
63-3622NN	Amended	Ch.242 - 753
63-3622QQ	New Section Added	Ch.355 - 1123
63-3622RR	New Section Added	Ch.242 - 752
63-3622Y	Am&Redesig 63-3622II(added Ch.435/Laws1990)	Ch. 25 - 131
63-3626	Referred to	Ch.369 - 1175
63-3626	Referred to	Ch.370 - 1184
63-3629	Referred to	Ch.369 - 1175
63-3629	Referred to	Ch.370 - 1184
63-3633	Referred to	Ch.369 - 1175
63-3633	Referred to	Ch.370 - 1184
63-3638	Amended(amended Ch.104/Laws2004)	Ch. 18 - 49
63-3638	Amended(amended Ch.104/Laws2004)	Ch. 18 - 52
63-3638	Referred to	Ch.389 - 1254
Ch.39	Referred to	Ch.370 - 1178
Ch.43	Referred to	Ch.370 - 1178
63-4401	New Section Added	Ch.370 - 1178
63-4402	New Section Added	Ch.370 - 1179
63-4403	New Section Added	Ch.370 - 1181
63-4404	New Section Added	Ch.370 - 1181
63-4405	New Section Added	Ch.370 - 1182
63-4406	New Section Added	Ch.370 - 1182
63-4407	New Section Added	Ch.370 - 1183
63-4408	New Section Added	Ch.370 - 1184
63-4409	New Section Added	Ch.370 - 1184

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65-107	Amended	Ch.337 - 1054
65-202	Amended	Ch.337 - 1055

TITLE 66
Ch.3 Referred to..... Ch.120 - 380
66-317 Amended..... Ch.391 - 1315
66-324 Amended..... Ch.391 - 1317
66-405 Amended..... Ch.120 - 394
66-901 Referred to..... Ch. 96 - 316
66-1104 Referred to..... Ch.171 - 532
66-1106 Amended..... Ch.336 - 1053
66-1107 Amended..... Ch.336 - 1053
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67-450B Referred to..... Ch. 41 - 164
67-509 Referred to.....HCR 3 - 1416
67-509 Referred to.....HCR 4 - 1418
67-818 Amended..... Ch.402 - 1367
67-818 Am & Redesig 67-820(added Ch.273/Laws2000).. Ch. 25 - 132
67-820 Redesignated from 67-818..... Ch. 25 - 132
67-904 Referred to.....HCR 7 - 1424
67-1210 Referred to..... Ch. 53 - 198
67-1210 Referred to..... Ch.403 - 1369
67-1222 Amended..... Ch.390 - 1261
67-1224 New Section Added..... Ch.159 - 491
67-1225 New Section Added..... Ch.159 - 492
67-1401 Referred to..... Ch.122 - 399
67-1901 New Section Added..... Ch.339 - 1057
67-1901 Repealed..... Ch.339 - 1057
67-1902 New Section Added..... Ch.339 - 1057
67-1902 Repealed..... Ch.339 - 1057
67-1903 New Section Added..... Ch.339 - 1058
67-1903 Repealed..... Ch.339 - 1057
67-1904 New Section Added..... Ch.339 - 1059
67-1905 New Section Added..... Ch.339 - 1060
67-2327 Referred to..... Ch. 53 - 201
67-2341 thru
67-2347 Referred to..... Ch. 53 - 195
67-2601 Amended..... Ch.143 - 449
67-2601 Amended..... Ch.277 - 867
67-2601 Amended..... Ch.329 - 1034
67-2602 Amended..... Ch.143 - 451
67-2602 Amended..... Ch.277 - 868
67-2602 Amended..... Ch.329 - 1036
67-2605 Referred to..... Ch.143 - 447
67-2609 thru
67-2614 Referred to..... Ch.143 - 447
67-2614 Referred to..... Ch.143 - 447
67-2614 Referred to..... Ch.277 - 863
67-2750 New Section Added..... Ch.265 - 810
67-2750 Repealed..... Ch.265 - 810
67-2751 New Section Added..... Ch.265 - 810
67-2751 Repealed..... Ch.265 - 810
67-2752 New Section Added..... Ch.265 - 811
67-2752 Repealed..... Ch.265 - 810
67-2753 New Section Added..... Ch.265 - 811
67-2753 Repealed..... Ch.265 - 810
67-2754 New Section Added..... Ch.265 - 812

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67-2754	Repealed	Ch.265 - 810
67-2755	New Section Added	Ch.265 - 813
67-2755	Repealed	Ch.265 - 810
67-2756	New Section Added	Ch.265 - 814
67-2756	Repealed	Ch.265 - 810
67-2757	New Section Added	Ch.265 - 815
67-2757	Repealed	Ch.265 - 810
67-2758	New Section Added	Ch.265 - 815
67-2758	Repealed	Ch.265 - 810
67-2759	New Section Added	Ch.265 - 815
67-2759	Repealed	Ch.265 - 810
67-2760	New Section Added	Ch.265 - 815
67-2760	Repealed	Ch.265 - 810
67-2761	New Section Added	Ch.265 - 816
67-2761	Repealed	Ch.265 - 810
67-2762	New Section Added	Ch.265 - 816
67-2762	Repealed	Ch.265 - 810
67-2763	Repealed	Ch.265 - 810
67-2764	Repealed	Ch.265 - 810
Ch.28	Referred to	Ch.213 - 637
67-2801	New Section Added	Ch.213 - 668
67-2802	New Section Added	Ch.213 - 668
67-2803	New Section Added	Ch.213 - 669
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IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS

Senator Larry E. Craig (R)
225 N. 9th, Suite 530
Boise, Idaho 83702

Senator Mike Crapo (R)
251 E. Front Street, Suite 205
Boise, Idaho 83702

REPRESENTATIVES IN CONGRESS

C. L. "Butch" Otter (R), First District
802 W. Bannock, #101
Boise, Idaho 83702

Mike Simpson (R), Second District
802 W. Bannock, #600
Boise, Idaho 83702

STATE ELECTED OFFICIALS

GOVERNOR Dirk Kempthorne (R)

LT. GOVERNOR James E. Risch (R)

SECRETARY OF STATE Ben T. Ysursa (R)

STATE CONTROLLER Keith L. Johnson (R)

STATE TREASURER Ron G. Crane (R)

ATTORNEY GENERAL Lawrence Wasden (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Marilyn Howard (D)

Mailing Address:
700 W. Jefferson St.
P.O. Box 83720
Boise, Idaho 83720-0054

LEGISLATORS BY DISTRICT

1-BONNER & BOUNDARY COUNTIES

Shawn Keough (R) Senate . . . . . 5th Term
P.O. Box 101, Sandpoint 83864
Home 263-1839
Toll Free Bonner/Boundary
Counties Only 1-888-453-6844
E-mail: skeough@senate.idaho.gov
Public Relations Spouse - Mike
CO-CHAIR-Joint Legislative Oversight
VICE CHAIR-Finance/JFAC
Health & Welfare; Transportation

Eric Anderson (R) House Seat A . . . . . 1st Term
28544 Hwy. 57, Priest Lake 83856
Home 443-1201 FAX 265-6316
E-mail: eanderso@house.idaho.gov
General Contracting/Real Estate Dev. Spouse - Nicky
Commerce & Human Resources; Environment, Energy & Technology; State Affairs

George E. Eskridge (R) House Seat B . . . . . 3rd Term
P.O. Box 112, Dover 83825
Home 265-0123 Bus. 265-4708
E-mail: geskridg@house.idaho.gov
Real Estate Spouse - Jenise
Appropriations/JFAC; Environment, Energy & Technology;
Resources & Conservation

2-BENEWAH, BONNER, KOOTENAI & SHOSHONE COUNTIES

Joyce M. Broadsword (R) Senate . . . . . 1st Term
P.O. Box 76, Cocolalla 83813
Home 263-7735 Bus. 263-3250 FAX 255-7714
E-mail: jbroadsw@senate.idaho.gov
Business Owner/Log Home Company Spouse - John
VICE-CHAIR - Health & Welfare
Agricultural Affairs; Commerce & Human Resources

Mary Lou Shepherd (D) House Seat A . . . . . 4th Term
273 Crescent Dr., Wallace 83873
Home 682-4771 FAX 682-2319
E-mail: mshepher@house.idaho.gov
Retired Business Owner Spouse - James
Commerce & Human Resources; Legislative Council; State Affairs; Transportation & Defense

R. J. "Dick" Harwood (R) House Seat B . . . . 3rd Term
81527 Hwy. 3 S., St. Maries 83861
Home 245-4446 Bus. 245-4446 FAX 245-4446
E-mail: dharwood@house.idaho.gov
SelfEmployed Businesses Spouse - Carole
VICE CHAIR-Environment, Energy & Technology
Appropriations/JFAC; Judiciary, Rules & Administration

3-KOOTENAI COUNTY

Michael Jorgenson (R) Senate . . . . . 1st Term
2953 Point Hayden Dr., Hayden Lake 83835
Home 762-4514 Bus. 762-7784 FAX 762-1485
E-mail: mnjorgen@senate.idaho.gov
Consultant Spouse - Cynthia
Education, Judiciary & Rules

Jim Clark (R) House Seat A . . . . . 6th Term
8798 N. Clarkview Pl., Hayden Lake 83835
Home 772-5992 Bus. 772-5992 FAX 772-7718
E-mail: jclark@house.idaho.gov
Web Page: www.clarkforIdaho.com
Retired Spouse - Vickie Parker-Clark
CHAIR-Ways & Means
Judiciary, Rules & Administration
Local Government; Revenue & Taxation

Phil Hart (R) House Seat B . . . . . 1st Term
4430 E. Sarah Loop, Athol 83801
Home 683-0456 Bus. 772-2522 FAX 772-1881
E-mail: phart@house.idaho.gov
Web Page: www.constitutionalincome.com
Structural Engineer
Judiciary, Rules & Administration; State Affairs; Transportation & Defense

4-KOOTENAI COUNTY

John W. Goedde (R) Senate . . . . . 3rd Term
525-B W. Harrison Ave., Coeur d'Alene 83814
Home 660-7663 Bus. 664-9223 FAX 664-9336
E-mail: jgoedde@senate.idaho.gov
Property/Casualty Insurance Sales
CHAIR-Education
Commerce & Human Resources

Marge Chadderdon (R) House Seat A . . . . . 1st Term
109 Lakeview Dr., Coeur d'Alene 83814
Home 769-9309 FAX 667-7920
E-mail: mchadder@house.idaho.gov
Co-owned a chain of floor covering stores
Business; Education; Local Government

George C. Sayler (D) House Seat B . . . . . 2nd Term
1102 Ash Ave., Coeur d'Alene 83814
Home 664-2787
E-mail: gsayler@house.idaho.gov
Retired Teacher Spouse - Kathleen
ASST. MINORITY LEADER
Resources & Conservation; Revenue & Taxation; Ways & Means

LEGISLATORS BY DISTRICT (Continued)

5-KOOTENAI COUNTY

Richard L. "Dick" Compton (R) Senate . . . 2nd Term
P.O. Box 1738, Coeur d'Alene 83816-1738
Home 667-6912
E-mail: dcompton@senate.idaho.gov
Consultant Spouse - Janette
CHAIR-Health & Welfare
Commerce & Human Resources; Legislative Council

Bob Nonini (R) House Seat A . . . . . 1st Term
5875 W. Harbor Dr., Coeur d'Alene 83814
Home 765-1904 Bus. 667-5762 FAX 667-5959
E-mail: bnonini@house.idaho.gov
Web Page: www.bobforidaho.com
Financial Consulting Spouse - Cathyanne
Business; Education; Transportation & Defense

Frank N. Henderson (R) House Seat B . . . . 1st Term
362 S. Ponderosa Loop, Post Falls 83854
Home 773-2269
E-mail: fhenders@house.idaho.gov
Retired Newspaper Publisher/ Spouse - Lillian
Marketing Executive
Business; Education; Local Government

6-LATAH COUNTY

Gary J. Schroeder (R) Senate . . . . . 7th Term
1289 Highland, Moscow 83843
Home 882-9092 Bus. 882-0601 FAX 882-5715
E-mail: gschroed@senate.idaho.gov
Business owner/Outdoor writer
CHAIR-Resources & Environment
Education

Tom Trail (R) House Seat A . . . . . 5th Term
1375 Mountain View Rd., Moscow 83843
Home 882-6077 Bus. 882-6077 FAX 882-0896
E-mail: ttrail@house.idaho.gov
Web Page: www.users.moscow.com/ttrail
Education Consultant/Farmer Spouse - Jo Ann
VICE CHAIR-Agricultural Affairs
Commerce & Human Resources; Education

Shirley G. Ringo (D) House Seat B . . . . . 2nd Term
(Served 1 Term, House 1999-2000)
1021 Herrington Rd., Moscow 83843
Home 883-1005 FAX 883-1005
E-mail: sringo@house.idaho.gov
Web Page: www.shirleyringo.com
Retired teacher Spouse - John A.
Appropriations/JFAC; Commerce & Human Resources; Transportation & Defense

7-NEZ PERCE COUNTY

Joe Stegner (R) Senate . . . . . 4th Term
216 Prospect Blvd., Lewiston 83501
Home 743-3032 FAX 798-8016
E-mail: jstegner@senate.idaho.gov
Retired Grain Dealer Spouse - Deborah
ASST. MAJORITY LEADER
Commerce & Human Resources; Local Government & Taxation; State Affairs

Mike P. Mitchell (D) House Seat A . . . . . 2nd Term
(Served 5 Terms, Senate 1971-82; House 1969-70)
1916 Gateway Dr., Lewiston 83501
Home 746-6313 FAX 743-1713
E-mail: mmitchel@house.idaho.gov
Business Consultant Spouse - Arlene Rae
Education; Resources & Conservation; Transportation & Defense

John Rusche (D) House Seat B . . . . . 1st Term
1405 27th Ave., Lewiston 83501
Home 743-1339 Bus. 798-2109
E-mail: jrusche@house.idaho.gov
Physician Spouse - Kay
Business; Health & Welfare

8-CLEARWATER, IDAHO, LEWIS & VALLEY COUNTIES

R. Skipper "Skip" Brandt (R) Senate . . . . . 3rd Term
P.O. Box 296, Kooskia 83539
Home 926-0150 FAX (509) 463-8912
E-mail: sbrandt@senate.idaho.gov
Co-Owner Stites Ace Hardware Spouse - Pia
CHAIR-Transportation
Health & Welfare; Resources & Environment

Ken A. Roberts (R) House Seat A . . . . . 3rd Term
P.O. Box 1003, McCall 83638
Home 634-0050 Bus. 325-8351
E-mail: kroberts@house.idaho.gov
Farmer/Construction Contractor Spouse - Mary Jo
VICE CHAIR-Transportation & Defense
Resources & Conservation; Revenue & Taxation

Paul Shepherd (R) House Seat B . . . . . 1st Term
906 N. McArthur, P.O. Box 277, Riggins 83549
Home 628-3695 Bus. 628-3563 FAX 628-3563
E-mail: pshepher@house.idaho.gov
Partner/Manager Shepherd Sawmill & Spouse - Dawn
Log Homes
Education; Health & Welfare; Resources & Conservation;

LEGISLATORS BY DISTRICT (Continued)

9-ADAMS, CANYON, PAYETTE & WASHINGTON COUNTIES

Monty J. Pearce (R) Senate . . . . . 4th Term
(Served 2 Terms, House 1999-2002)
2001 County Line Rd., New Plymouth 83655
Home 278-5408
E-mail: mpearce@senate.idaho.gov
Rancher Spouse - Merry
VICE CHAIR-Resources & Environment
Education; Finance/JFAC

Lawerence Denney (R) House Seat A . . . . . 5th Term
P.O. Box 114, Midvale 83645
Home 355-2374 FAX 355-3334
E-mail: ldenney@house.idaho.gov
Farmer Spouse - Donna
MAJORITY LEADER
Legislative Council; Resources & Conservation; Revenue & Taxation; Ways & Means

Clete Edmunson (R) House Seat B . . . . . 2nd Term
2960 Hwy. 95, Council 83612
Home 869-4274
E-mail: cedmunso@house.idaho.gov
Teacher/Small Business Owner
Business; Environment, Energy & Technology; State Affairs

10-CANYON COUNTY

John McGee (R) Senate . . . . . 1st Term
1601 Idaho Ave., Caldwell 83605
Home 459-8404 Bus. 454-7326 FAX 454-6688
E-mail: jmcgee@senate.idaho.gov
Web Page: www.johnmcgee.org
Exec. Director/Western Canyon Youth & Family Coalition
VICE CHAIR-Transportation
Finance/JFAC; Health & Welfare

Robert "Bob" Ring (R) House Seat A . . . . . 2nd Term
406 Spruce St., Caldwell 83605
Home 459-8079
E-mail: bring@house.idaho.gov
Retired Physician Spouse - Dorothy
Health & Welfare; Judiciary, Rules & Administration; State Affairs

Darrell Bolz (R) House Seat B . . . . . 3rd Term
3412 College Ave., Caldwell 83605-6136
Home 454-1334
E-mail: dbolz@house.idaho.gov
U of I Extension Professor Emeritus Spouse - Carol
Agricultural Affairs; Appropriations/JFAC; Commerce & Human Resources

11-CANYON & GEM COUNTIES

Brad Little (R) Senate . . . . . 3rd Term
P.O. Box 488, Emmett 83617-0488
Home 365-6566 Bus. 365-4611 FAX 365-4615
E-mail: blittle@senate.idaho.gov
Rancher Spouse - Teresa
MAJORITY CAUCUS CHAIR
Resources & Environment; State Affairs; Transportation

Kathy Skippen (R) House Seat A . . . . . 2nd Term
5454 W. Central Rd., Emmett 83617
Home 365-5686
E-mail: kskippen@house.idaho.gov
Farmer Spouse - Dar Olberding
Appropriations/JFAC; Commerce & Human Resources; Transportation & Defense

Carlos Bilbao (R) House Seat B . . . . . 1st Term
2062 Corral Rd., Emmett 83617
Home 365-9438 Bus. 284-0539
E-mail: cbilbao@house.idaho.gov
Retired Sr. Quality Manager Spouse - Nancy
Boeing Company
Business; Health & Welfare

12-CANYON COUNTY

Curt McKenzie (R) Senate . . . . . 2nd Term
1911 Candlewood Dr., Nampa 83686
Home 468-1027 Bus. 387-4224 FAX 389-9040
E-mail: cmckenzi@senate.idaho.gov
Attorney Spouse - Renee
VICE CHAIR-State Affairs
Local Government & Taxation; Transportation

Robert E. Schaefer (R) House Seat A . . . . . 11th Term
P.O. Box 55, Nampa 83653
Home 466-3636 Bus. 466-3636
E-mail: rschaefe@house.idaho.gov
Architect Spouse - Betty
CHAIR-Commerce & Human Resources
Revenue & Taxation

Gary E. Collins (R) House Seat B . . . . . 3rd Term
2019 E. Massachusetts, Nampa 83686
Home 466-5460 Bus. 466-4787 FAX 466-8412
E-mail: gcollins@house.idaho.gov
Insurance Agency Owner Spouse - Ann
VICE CHAIR-Business
Legislative Council; Local Government; Revenue & Taxation

LEGISLATORS BY DISTRICT (Continued)

13-CANYON COUNTY

Patti Anne Lodge (R) Senate . . . . . 3rd Term
P.O. Box 96, Huston 83630
Home 459-7158 FAX 459-7199
E-mail: palodge@senate.idaho.gov
Education Media Spouse - Edward J.
Consultant/Agribusiness Owner
Finance/JFAC; Judiciary & Rules; Legislative Council

Dolores J. Crow (R) House Seat A . . . . . 12th Term
203 S. Olive, Nampa 83686
Home 467-1302
E-mail: dcrow@house.idaho.gov
Retired Businesswoman
CHAIR-Revenue & Taxation
Commerce & Human Resources

W. W. "Bill" Deal (R) House Seat B . . . . . 8th Term
917 2nd St. S., Nampa 83651
Home 466-3184 Bus. 466-2465 FAX 466-2471
E-mail: bdeal@house.idaho.gov
Insurance Spouse - Joan
CHAIR-State Affairs
Business

14-ADA COUNTY

Hal Bunderson (R) Senate . . . . . 7th Term
582 River Heights Dr., Meridian 83642
Home 888-7156 Bus. 888-7156 FAX 888-7188
E-mail: hbunders@senate.idaho.gov
Web Page: www.senatorbunderson.com
Retired CPA-Auditor Spouse - Mary Kay
& Real Estate Developer
CHAIR-Local Government & Taxation
Judiciary & Rules

Mike Moyle (R) House Seat A . . . . . 4th Term
480 N. Plummer Rd., Star 83669
Home 286-7842 Bus. 286-7842 FAX 286-9540
E-mail: mmoyle@house.idaho.gov
Agribusiness Spouse - Sue Ann
ASST. MAJORITY LEADER
Resources & Conservation; Revenue
& Taxation; Transportation & Defense; Ways & Means

Stan Bastian (R) House Seat B . . . . . 1st Term
1369 E. Nest View Ct., Eagle 83616
Home 939-8272 Bus. 468-7820 ext. 422 FAX 939-8272
E-mail: sbastian@house.idaho.gov
School Administrator Spouse - Kathleen
Environment, Energy & Technology; Judiciary,
Rules & Administration

15-ADA COUNTY

John C. Andreason (R) Senate . . . . . 6th Term
(Served 2 terms, Senate 1967-70)
5120 N. Mountain View Dr., Boise 83704
Home 322-8558 FAX 672-8558
E-mail: jandreas@senate.idaho.gov
Retired Director, Legislative Spouse - Darlene
Budget Office
CHAIR-Commerce & Human Resources
Education; Joint Legislative Oversight

Steve Smylie (R) House Seat A . . . . . 4th Term
2220 N. Coolwater Ave., Boise 83713
Home 377-5281 Bus. 322-3845 FAX 377-5281
E-mail: ssmylie@house.idaho.gov
Web Page: www.ssmylie.com
Teacher, Businessman Spouse - Marsha
VICE CHAIR-State Affairs
Environment, Energy & Technology

Max C. Black (R) House Seat B . . . . . 7th Term
3731 Buckingham Dr., Boise 83704
Home 375-2635 FAX 375-8250
E-mail: mblack@house.idaho.gov
Retired Insurance Spouse - Clydene
CHAIR-Business
State Affairs

16-ADA COUNTY

David Langhorst (D) Senate . . . . . 1st Term
(Served 1 term, House 2003-2004)
6700 Hill Rd., Boise 83714
Home 853-0303
E-mail: dlanghor@senate.idaho.gov
Web Page: www.davidlanghorst.com
Manufacturer's Representative Spouse - Christine
Legislative Council; Local Government & Taxation;
Resources & Environment; Transportation

Margaret Henbest (D) House Seat A . . . . . 5th Term
P.O. Box 934, Boise 83701
Home 853-5423 Bus. 853-5423 FAX 853-5423
E-mail: mhenbest@house.idaho.gov
Nurse Practitioner Spouse - Michael
CO-CHAIR-Joint Legislative Oversight
Appropriations/JFAC; Business; Health & Welfare

Jana Kemp (R) House Seat B . . . . . 1st Term
P.O. Box 8045, Boise 83707
Bus. 367-1701
E-mail: jkemp@house.idaho.gov
Web Page: www.janakemp.com
Owner of Meeting & Management Essentials
Commerce & Human Resources; Education; Local
Government

LEGISLATORS BY DISTRICT (Continued)

17-ADA COUNTY

Elliot Werk (D) Senate . . . . . 2nd Term
6810 Randolph Dr., Boise 83709
Home 373-0993 Bus. 658-0388 FAX 375-3822
E-mail: ewerk@senate.idaho.gov
Web Page: www.elliotwerk.org
Spouse - Nancy Greenwald
Commerce & Human Resources; Finance/JFAC; Health & Welfare; Legislative Council

Kathie Garrett (R) House Seat A . . . . . 2nd Term
3227 Crescent Rim Dr., Boise 83706
Home 344-5838 FAX 344-4825
E-mail: kgarrett@house.idaho.gov
Homemaker Spouse - Vernon
VICE CHAIR-Health & Welfare
Commerce & Human Resources; State Affairs

Janet J. Miller (R) House Seat B . . . . . 2nd Term
5707 W. Randolph Dr., Boise 83705
Home 375-7627
E-mail: jmiller@house.idaho.gov
Web Page: www.jjmiller.info
Property Management Spouse - Donald B.
Business; State Affairs

18-ADA COUNTY

Kate Kelly (D) Senate . . . . . 1st Term
P.O. Box 654, Boise 83701
Home 850-7217
E-mail: kkelly@senate.idaho.gov
Web Page: www.katekelly.senate.org
Attorney
Agricultural Affairs; Health & Welfare; Judiciary & Rules

Debbie S. Field (R) House Seat A . . . . . 6th Term
3236 Chickory Way, Boise 83706
Home 336-8565
E-mail: dfield@house.idaho.gov Spouse - Mike
CHAIR-Judiciary, Rules & Administration
Joint Legislative Oversight; Revenue & Taxation

Julie Ellsworth (R) House Seat B . . . . . 5th Term
P.O. Box 668, Boise 83701
Home 336-6747
E-mail: jellswor@house.idaho.gov Spouse - Maurice
MAJORITY CAUCUS CHAIR
Environment, Energy & Technology; Judiciary, Rules & Administration; State Affairs; Ways & Means

19-ADA COUNTY

Mike Burkett (D) Senate . . . . . 2nd Term
(Served 2 Terms, Senate 1989-92)
512 N. 13th St., Boise 83702
Home 344-2424 Bus. 344-2424 FAX 344-3370
E-mail: mburkett@senate.idaho.gov
Attorney Spouse - Sharon
ASST. MINORITY LEADER
Education; Judiciary & Rules

Ann Pasley-Stuart (D) House Seat A . . . . . 2nd Term
2301 Hillway Dr., Boise 83702
Bus. 424-0440
E-mail: aps@house.idaho.gov
Web Page: www.pasley-stuart.org
President/CEO Pasley-Stuart Consulting Spouse - Tom
Commerce & Human Resources; Local Government; State Affairs

Nicole LeFavour (D) House Seat B . . . . . 1st Term
1210 N. 11th St., Boise 83702
Home 724-0468
E-mail: nlefavou@house.idaho.gov
Teacher, Non-Profit Organizer, Small Business Owner
Partner - Carol Growhoski
Environment, Energy & Technology; Judiciary, Rules & Administration; Revenue & Taxation

20-ADA COUNTY

Gerry Sweet (R) Senate . . . . . 2nd Term
3122 N. Sunny Side Ave., Meridian 83642
Home 887-1085 Bus. 895-0224
E-mail: gsweet@senate.idaho.gov
Small Business Owner Spouse - Christine
Finance/JFAC; Judiciary & Rules;
Local Government & Taxation

Mark A. Snodgrass (R) House Seat A . . . . . 2nd Term
405 W. Sedgewick Dr., Meridian 83642
Home 887-4939 Bus. 861-0728 FAX 884-4219
E-mail: msnodgra@house.idaho.gov
Economics Instructor Spouse - Pascale
& Real Estate Agent
Business; Environment, Energy & Technology; State Affairs

Shirley McKague (R) House Seat B . . . . . 5th Term
933 E. Pine, Meridian 83642
Home 888-2842
E-mail: smckague@house.idaho.gov
Retired Family Service Station Business Spouse - Paul
VICE CHAIR-Commerce & Human Resources
Revenue & Taxation; Transportation & Defense

LEGISLATORS BY DISTRICT (Continued)

21-ADA COUNTY

Russell M. Fulcher (R) Senate ..... 1st Term
4035 S. Linder Rd., Meridian 83642
Home 888-1518
E-mail: rfulcher@senate.idaho.gov
Vice President of Preco Electronics Spouse - Kara
Agricultural Affairs; Education; Transportation

William T. "Bill" Sali (R) House Seat A .... 8th Term
175 Linke Ct., Kuna 83634-2053
Bus. 922-5377
E-mail: bsali@house.idaho.gov
Attorney Spouse - Terry
Health & Welfare; Judiciary, Rules & Administration

Clifford R. Bayer (R) House Seat B ..... 2nd Term
8020 W. Amity, Boise 83709
Home 362-5058 Bus. 422-1000 ext. 7658
E-mail: cbayer@house.idaho.gov
Medical Research Scientist Spouse - Nicole
VICE CHAIR- Local Government
Appropriations/JFAC

22-BOISE & ELMORE COUNTIES

Tim Corder (R) Senate ..... 1st Term
357 S.E. Corder Dr., Mountain Home 83647
Home 587-8562 Bus. 599-0427 FAX 587-5871
E-mail: tcorder@senate.idaho.gov
Trucking Company Spouse - LaVonne
Agricultural Affairs; Local Government & Taxation

Richard "Rich" Wills (R) House Seat A ... 2nd Term
Box 602, Glenns Ferry 83623
Home 366-7408 Bus. 250-0556 FAX 366-2457
E-mail: rwills@house.idaho.gov
Web Page: www.rwills57@netzero.net
DARE Officer for Owyhee County Spouse - Connie
Sheriff's Office; Consulting Bus.; Owner - Opera Theatre
Education; Judiciary, Rules & Administration;
Transportation & Defense

Peter Nielsen (R) House Seat B ..... 2nd Term
3955 S. 136 W., Mountain Home 83647
Home 832-4382 FAX 832-4013
E-mail: pnielsen@house.idaho.gov
Life & Health Insurance Agent Spouse - Connie
Education; Health & Welfare; Judiciary,
Rules & Administration

23-OWYHEE & TWIN FALLS COUNTIES

Tom Gannon (R) Senate ..... 2nd Term
4180 N. 1572 E., Buhl 83316
Home 543-2330 Bus. 543-5125 FAX 543-2884
E-mail: tgannon@senate.idaho.gov
Retired Naval Officer, City Planning Spouse - Jeanne
& Zoning Administrator
VICE CHAIR-Agricultural Affairs
Education

Frances Chatburn Field (R) House Seat A .. 11th Term
23608 Field Ln., Grand View 83624
Home 834-2488
E-mail: ffield@house.idaho.gov
Retired Teacher & Clerk/Business Spouse - Oscar
Mgr./Farm Owner (deceased)
VICE CHAIR-Appropriations/JFAC
Agricultural Affairs; Legislative Council; Resources &
Conservation

Douglas R. "Doug" Jones (R) House Seat B . 11th Term
3515 N. 2300 E., Filer 83328
Home 326-4181 FAX 326-3764
E-mail: drjones@house.idaho.gov
Farmer Spouse - Mary Liz
CHAIR-Agricultural Affairs
Resources & Conservation; State Affairs

24-TWIN FALLS COUNTY

Charles H. Coiner (R) Senate ..... 1st Term
2138 Hillcrest Dr., Twin Falls 83301
Home 734-1675 Bus. 423-4015 FAX 423-9089
E-mail: ccoiner@ senate.idaho.gov
Farmer Spouse - Carolyn
VICE CHAIR-Commerce & Human Resources
Agricultural Affairs; Health & Welfare

Leon E. Smith (R) House Seat A 4thTerm
1381 Galena Dr., Twin Falls 83301
Home 733-0843
E-mail: lsmith@house.idaho.gov
Lawyer and Mediator Spouse - Janice Mittleider-Smith
VICE CHAIR-Judiciary, Rules & Administration
Revenue & Taxation; Transportation & Defense

Sharon L. Block (R) House Seat B ..... 3rd Term
1093 Lakewood Dr., Twin Falls 83301
Home 734-6360 FAX 736-7187
E-mail: sblock@house.idaho.gov
Property Mgr./Former Teacher Spouse - D.W. "Bill"
CHAIR-Health & Welfare
Business; Education

25-BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

Clint Stennett (D) Senate ..... 6th Term
(Served 2 terms, House 1990-94)
P.O. Box 475, Ketchum 83340
Home 726-8106 Bus. 788-4504 FAX 788-4444
E-mail: cstennet@senate.idaho.gov
Businessman, TV Broadcasting Spouse - Michelle
MINORITY LEADER
Agricultural Affairs; Legislative Council; Resources & Environment; State Affairs

Wendy Jaquet (D) House Seat A ..... 6th Term
P.O. Box 783, Ketchum 83340
Home 726-3100 FAX 726-0674
E-mail: wjaquet@house.idaho.gov
Web Page: www.wendyjaquet.com
Tourism Consultant Spouse - Jim
MINORITY LEADER
Agricultural Affairs; Legislative Council; Resources & Conservation; Revenue & Taxation; Ways & Means

Donna Pence (D) House Seat B ..... 1st Term
1960 US Hwy. 26, Gooding 83330
Home 934-5302 FAX 934-5302
E-mail: dpence@house.idaho.gov
Retired Teacher/Tree Farmer Spouse - Lew
Agricultural Affairs; Education; Judiciary, Rules & Administration

26-JEROME & MINIDOKA COUNTIES

Dean L. Cameron (R) Senate ..... 8th Term
1101 Ruby Dr., Rupert 83350
Home 436-5624 Bus. 436-4424 FAX 436-3776
Senate Line 436-4424
E-mail: dcameron@senate.idaho.gov
Self-Employed Insurance Agent Spouse - Linda
CHAIR-Finance, CO-CHAIR-JFAC
Commerce & Human Resources; Resources & Environment

John A. "Bert" Stevenson (R) House Seat A .. 5th Term
1099 N. 400 W., Rupert 83350
Home 532-4524 Bus. 532-4105 FAX 532-4720
E-mail: jstevens@house.idaho.gov
Farmer Spouse - Elaine
CHAIR-Resources & Conservation
Agricultural Affairs; State Affairs

Maxine T. Bell (R) House Seat B ..... 9th Term
194 S. 300 E., Jerome 83338
Home 324-4296
E-mail: mbell@house.idaho.gov
Farmer/Homemaker Spouse - H. Jack
CHAIR-Appropriations, CO-CHAIR-JFAC
Joint Legislative Oversight; Resources & Conservation

27-BINGHAM, CASSIA, ONEIDA & POWER COUNTIES

Denton Darrington (R) Senate ..... 12th Term
302 S. Hwy. 77, Declo 83323
Home 654-2712
E-mail: ddarring@senate.idaho.gov
Farmer/Teacher Spouse - Virgene
CHAIR-Judiciary & Rules
Health & Welfare; State Affairs

Scott Bedke (R) House Seat A ..... 3rd Term
P.O. Box 89, Oakley 83346
Home 862-3619 FAX 862-3688
E-mail: sbedke@house.idaho.gov
Rancher Spouse - Sarah
Appropriations/JFAC; Resources & Conservation; Transportation & Defense

Bruce Newcomb (R) House Seat B ..... 10th Term
P.O. Box 757, Burley 83318
Statehouse: Ph 332-1111 FAX 334-2491 Rm 309
E-mail: bnewcomb@house.idaho.gov
Farmer/Rancher Spouse - Celia Gould
SPEAKER OF THE HOUSE
CO-CHAIR-Legislative Council

28-BINGHAM COUNTY

J. Stanley "Stan" Williams (R) Senate ..... 4th Term
1286 W. 200 S., Pingree 83262
Home 684-4932 FAX 684-9211
E-mail: swilliam@senate.idaho.gov
Farmer/Rancher Spouse - Nancy
CHAIR-Agricultural Affairs
Local Government & Taxation; Resources & Environment

Dennis M. Lake (R) House Seat A ..... 5th Term
830 Taber Rd., Blackfoot 83221
Home 684-4967 FAX 684-9336
E-mail: dlake@house.idaho.gov
Agribusiness Spouse - Luann
VICE CHAIR-Revenue & Taxation
Agricultural Affairs; Commerce & Human Resources

Joseph S. Cannon (R) House Seat B ..... 2nd Term
725 Airport Rd. #20, Blackfoot 83221
Home 785-4290 Bus. 785-6281 FAX 785-4775
E-mail: jcannon@house.idaho.gov
General Contractor, Spouse - Jeanne
Cannon Builders, Inc.
Business; Education; Transportation & Defense

29-BANNOCK COUNTY

Bert C. Marley (D) Senate . . . . . 3rd Term
(Served 1-1/2 terms, House 1998-2001)
8806 S. Old Hwy. 91, McCammon 83250
Home 254-3586 Bus. 254-3711 FAX 254-3898
E-mail: bmarley@senate.idaho.gov
Teacher/Farmer Spouse - Michelle
Education; Finance/JFAC; Joint Legislative Oversight; Transportation

Ken Andrus (R) House Seat A . . . . . 1st Term
6948 E. Old Oregon Trail Rd., Lava Hot Springs 83246
Home 776-5380
E-mail: kandrus@house.idaho.gov
Cattle & Sheep Rancher Spouse - Colleen
Agricultural Affairs; Resources & Conservation; State Affairs

Elmer Martinez (D) House Seat B . . . . . 3rd Term
8209 W. Portneuf Rd., Pocatello 83204
Home 232-4532
E-mail: emartine@house.idaho.gov
Retired Firefighter/Paramedic Spouse - DeeAnn
MINORITY CAUCUS CHAIR
Health & Welfare; Revenue & Taxation; Ways & Means

30-BANNOCK COUNTY

Edgar J. Malepeai (D) Senate . . . . . 2nd Term
585 S. 19th, Pocatello 83201
Home 232-2038 Bus. 237-1300 FAX 237-1350
E-mail: emalepea@senate.idaho.gov
Teacher Spouse - Brenda K.
MINORITY CAUCUS CHAIR
Commerce & Human Resources; Local Government & Taxation; State Affairs

Donna H. Boe (D) House Seat A . . . . . 5th Term
226 S. 16th, Pocatello 83201
Home 233-5651 FAX 234-4223
E-mail: dboe@house.idaho.gov
ESL Tutor Spouse - Roger
Education; Joint Legislative Oversight; Judiciary, Rules & Administration; Local Government

Elaine Smith (D) House Seat B . . . . . 3rd Term
3759 Heron Ave., Pocatello 83201
Home 237-1462 Bus. 232-3563 FAX 235-3280
E-mail: esmith@house.idaho.gov
Volunteer Services Coordinator Spouse - Rich
School District 25
Business; Environment, Energy & Technology; Legislative Council; State Affairs

31-BEAR LAKE, BONNEVILLE, CARIBOU, FRANKLIN & TETON COUNTIES

Robert L. Geddes (R) Senate . . . . . 6th Term
370 Mountain View Ave., Soda Springs 83276
Home 547-2423
Statehouse: Ph 332-1300 FAX 334-2320 Rm 351
E-mail: rlgeddes@senate.idaho.gov
Environmental Engineer Spouse - Tammy
PRESIDENT PRO TEM
CO-CHAIR-Legislative Council
State Affairs; Transportation

Larry C. Bradford (R) House Seat A . . . . . 3rd Term
3208 E. Cub River Rd., Franklin 83237
Home 646-2409
E-mail: lbradfor@house.idaho.gov
Retired Mink Rancher Spouse - Larene
Commerce & Human Resources; Education; Local Government

Thomas F. Loertscher (R) House Seat B . . . . 1st Term
(Served 7 terms, House 1987-2002)
1357 Bone Rd., Iona 83427
Home 522-3072 Bus. 523-7796 FAX 522-1141
E-mail: tloertsc@house.idaho.gov
Farmer/Rancher Spouse - Linda
Health & Welfare; State Affairs

32-BONNEVILLE COUNTY

Melvin M. "Mel" Richardson (R) Senate . . . 7th Term
(Served 2 terms, House 1989-92)
3725 Brookfield Ln., Idaho Falls 83406
Home 522-0772 FAX 522-3230
E-mail: mrichard@senate.idaho.gov
Public Relations - Broadcaster; Spouse - Dixie
Host, Probing America Radio Show
VICE CHAIR-Judiciary & Rules
Finance/JFAC

Janice K. McGeachin (R) House Seat A . . . 2nd Term
6121 N. 5th W., Idaho Falls 83401
Home 524-5521 Bus. 523-1718 FAX 529-9936
E-mail: jmcgeach@house.idaho.gov
Web Page: www.votemcgeachin.com
Business Owner - J.R. McGeachin, Spouse - James J.
Inc. dba: IdahoTransmission Warehouse/Western Transmission
Health & Welfare; Judiciary, Rules & Administration; Revenue & Taxation

Ann Rydalch (R) House Seat B . . . . . 2nd Term
(Served 4 terms Senate, 1983-90)
3824 E. 17th St., Idaho Falls 83406
Home 522-6741 Bus. 526-1010
E-mail: arydalch@house.idaho.gov
Business Systems Specialist, INL Spouse - Vernal
VICE CHAIR-Education
Business; Environment, Energy & Technology