

GENERAL LAWS
OF THE
STATE OF IDAHO



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SIXTY-FIRST IDAHO LEGISLATURE

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**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 193
(H.B. No. 376)

AN ACT

RELATING TO SUCCESSOR CORPORATIONS; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 19, TITLE 30, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO PROVIDE LIMITATIONS ON SUCCESSOR ASBESTOS-RELATED LIABILITIES, TO ESTABLISH A FAIR MARKET VALUE OF TOTAL GROSS ASSETS, TO PROVIDE FOR ADJUSTMENT AND TO PROVIDE SCOPE AND APPLICATION.

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

SECTION 1. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 19, Title 30, Idaho Code, and to read as follows:

CHAPTER 19
SUCCESSOR CORPORATION ASBESTOS-RELATED LIABILITY FAIRNESS ACT

30-1901. SHORT TITLE. This act shall be known and may be cited as the "Successor Corporation Asbestos-Related Liability Fairness Act."

30-1902. DEFINITIONS. As used in this section, the following terms shall mean:

(1) "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution or other relief arising out of, based on, or in any way related to asbestos, including:

- (a) The health effects of exposure to asbestos, including a claim for:
 - (i) Personal injury or death;
 - (ii) Mental or emotional injury;
 - (iii) Risk of disease or other injury; or
 - (iv) The costs of medical monitoring or surveillance;

(b) Any claim made by, or on behalf of, any person exposed to asbestos, or a representative, spouse, parent, child or other relative of the person; and

(c) Any claim for damage or loss caused by the installation, presence, or removal of asbestos.

(2) "Corporation" means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than the laws of this state.

(3) "Successor" means a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities that is a successor and became a successor before January 1, 1972, or is any of that successor corporation's successors.

(4) "Successor asbestos-related liabilities" means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, that are related in any way to asbestos claims and were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation, or that are related in any way to asbestos claims based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. The term includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined pursuant to section 30-1905, Idaho Code, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a succes-

sor of the corporation, or by or on behalf of a transferor, in connection with settlements, judgments, or other discharges in this state or another jurisdiction.

(5) "Transferor" means a corporation from which the successor asbestos-related liabilities are or were assumed or incurred.

30-1903. APPLICABILITY. (1) The limitations in section 30-1904, Idaho Code, shall apply to any successor corporation.

(2) The limitations of section 30-1904, Idaho Code, shall not apply to:

(a) Worker's compensation benefits paid by, or on behalf of, an employer to an employee under the provisions of title 72, Idaho Code, or a comparable worker's compensation law of another jurisdiction;

(b) Any claim against a corporation that does not constitute a successor asbestos-related liability;

(c) Any obligation under the national labor relations act, 29 U.S.C. section 151 et seq., as amended, or under any collective bargaining agreement; or

(d) A successor that, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing, or installing asbestos-containing products that were the same as those products previously manufactured, distributed, removed, or installed by the transferor.

30-1904. LIMITATIONS ON SUCCESSOR ASBESTOS-RELATED LIABILITIES. (1) Except as further limited in subsection (2) of this section, the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation does not have responsibility for successor asbestos-related liabilities in excess of this limitation.

(2) If the transferor has assumed or incurred successor asbestos-related liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (1) of this section for purposes of determining the limitation of liability of a successor corporation.

30-1905. ESTABLISHING FAIR MARKET VALUE OF TOTAL GROSS ASSETS. (1) A successor corporation may establish the fair market value of total gross assets for the purpose of the limitations under section 30-1904, Idaho Code, through any method reasonable under the circumstances, including:

(a) By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction; or

(b) In the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(2) Total gross assets include intangible assets.

(3) To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms, conditions and limits of such insurance shall not be affected by this statute, nor shall this statute otherwise affect the rights and obligations of an insurer, transferor or successor under any insurance contract and/or any related agreements, including, without limitation, preenactment settlements resolving coverage-related disputes, and the rights of an insurer to seek payment for applicable deductibles, retrospective premiums or self-insured retentions or to seek

contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable. Without limiting the foregoing, to the extent total gross assets include any such liability insurance, a settlement of a dispute concerning any such liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before the effective date of this act shall be determinative of the total coverage of such liability insurance to be included in the calculation of the transferor's total gross assets.

30-1906. ADJUSTMENT. (1) Except as provided in subsections (2) through (4) of this section, the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of:

(a) The prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the year may be used; and

(b) One percent (1%).

(2) The rate enumerated in subsection (1) of this section shall not be compounded.

(3) The adjustment of the fair market value of total gross assets shall continue as provided in subsection (1) of this section until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by, or on behalf of, the successor corporation or a predecessor or by, or on behalf of, a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(4) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the definition of total gross assets by subsection (3) of section 30-1905, Idaho Code.

30-1907. SCOPE OF CHAPTER -- APPLICATION. (1) The courts of this state shall construe the provisions of this act liberally with regard to successors.

(2) This act shall apply to all asbestos claims filed against a successor on or after the effective date of this act and to any pending asbestos claims against a successor in which trial has not commenced as of the effective date of this act, except that any provisions of these sections which would be unconstitutional if applied retroactively shall be applied prospectively.

Law without signature.

CHAPTER 194
(H.B. No. 693)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5709, IDAHO CODE, TO PROVIDE FOR RULES GOVERNING THE CAPITOL MALL AND TO PROVIDE FOR ENFORCEMENT OF SUCH RULES, TO DEFINE THE CAPITOL MALL, TO AUTHORIZE STATE ENTITIES TO SUBJECT ADDITIONAL PROPERTY TO THE RULES GOVERNING THE CAPITOL MALL, TO PROVIDE FOR LAW ENFORCEMENT JURISDICTION OVER THE CAPITOL MALL, AND TO MAKE TECHNICAL CORRECTIONS; TO PROVIDE APPLICATION TO CERTAIN FLOORS OF THE STATE CAPITOL BUILDING; TO REQUIRE THE PROMULGATION OF RULES WITHIN THIRTY DAYS, WITH AN EFFECTIVE DATE NO EARLIER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5709, Idaho Code, be, and the same is hereby amended to read as follows:

67-5709. MANAGEMENT OF STATE FACILITIES. (1) In addition to the authority granted by section 67-1603, Idaho Code, the director of the department of administration shall have exclusive control of the capitol mall properties identified in subsection (2) of this section and shall have authority to promulgate rules relating to use of those properties, including the authority to promulgate rules requiring a permit for various uses of the capitol mall properties. Violations of rules promulgated under this section shall be infractions. The director shall have authority to sue to enjoin any threatened or continuing violation of such rules.

(2) Except as otherwise provided by law, the capitol mall properties shall include state of Idaho lands and buildings, together with any appurtenant grounds and systems including, but not limited to, electrical, plumbing, sewer, water, heating, ventilation and air conditioning systems as well as geothermal systems and tunnels, located between blocks one (1) and one hundred thirty-six (136) as shown on the Boise City original townsite plat filed in the Ada County recorder's office in book 1 on page 1. Subject to the following, the capitol mall properties shall be identified in rules promulgated pursuant to this section:

(a) At a minimum, the capitol mall properties shall consist of the following grounds, buildings, improvements and real property in Boise, Idaho: Joe R. Williams (700 W. State street), Len B. Jordan (650 W. State street), Pete T. Cenarrusa (450 W. State street), Division of Public Works (502 N. 4th street), Alexander House (304 W. State street), State Library (325 W. State street), Secretary of State (450 N. 4th street), 954 Jefferson (954 W. Jefferson street), Capitol Annex (514 W. Jefferson street), Borah Building (304 N. 8th street), and Steunenberg Monument Park (intersection of Capitol boulevard and Bannock street), and the Idaho Supreme Court (451 W. State street); provided, that the Idaho supreme court may regulate uses at the Idaho supreme court building and its grounds.

(b) The parking facilities, including appurtenant grounds and systems, at the following locations in Boise, Idaho, shall also be within the capitol mall properties: West State street parking facility, occupying block 101 as shown on the Boise City original townsite plat; 3rd street and Washington street parking facility, occupying a portion of block 105 as shown on the Boise City original townsite plat; 6th street and Washington street parking facility, occupying a portion of block 96 as shown on the Boise City original townsite plat; 8th street and Jefferson

street parking facility, occupying a portion of block 66 as shown on the Boise City original townsite plat; and 10th street and Jefferson parking facility, occupying a portion of block 68 as shown on the Boise City original townsite plat.

(c) The space within the interior of the capitol building shall be allocated and controlled as set forth in section 67-1602, Idaho Code; provided however, that the executive and legislative departments may subject all or a part of such space to the rules promulgated pursuant to this section as set forth in subsection (3) of this section.

(3) Rules promulgated pursuant to this section shall apply to properties not within the capitol mall properties upon the request of the state of Idaho public entity owning or controlling the property. When such a request has been made, the property subject to the request shall be identified by the director of the department of administration in rules promulgated under this section. Violations of the rules adopted under this section shall be infractions. The director of the department of administration and the governing authority of the requesting entity shall have the authority to sue to enjoin any threatened or continuing violation of such rules. All state law enforcement personnel, any sheriff or deputy sheriff in a county in which the property is located and any police officer in a city in which the property is located shall have authority to enforce the rules for that property.

(4) Responsibility for law enforcement at the capitol mall properties is vested in the director of the Idaho state police. In coordination with the director of the Idaho state police, Ada County and the city of Boise are granted jurisdiction to enforce the laws of the state of Idaho, the ordinances of Ada County, the ordinances of the city of Boise and the rules promulgated pursuant to this section. The director of the department of administration, or his designee, shall be responsible for security at the capitol mall properties and has the authority to contract with private contractors to provide security for persons and property at the capitol mall properties.

(5) The director of the department of administration may pay personnel costs and operating expenditures incurred in the operation and management of the state capitol mall properties and the multi-agency facilities constructed through the state building authority from the rents received therefrom. Proceeds accruing from such rental contracts and lease agreements after payment of personnel costs and operating expenditures which are in excess of two hundred thousand dollars (\$200,000) at the end of the fiscal year shall be deposited to the credit of the permanent building account. Proceeds from the rental of parking spaces in at the capitol mall shall be deposited upon receipt to the credit of the permanent building account. Said proceeds shall not be expended without an appropriation and shall only be appropriated for the security, maintenance and upkeep of the state capitol mall properties.

(6) Nothing contained in this section shall be deemed to give the department of administration control or management over the garden level, the first, third or fourth floors of the state capitol building which are vested with the legislative branch of government.

SECTION 2. Within thirty (30) days of the effective date of this act, the director of the Department of Administration shall promulgate rules pertaining to the use of the Capitol Mall properties; provided however, such rules may not take effect until thirty (30) days after the effective date of this act.

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

Approved March 30, 2012.

CHAPTER 195
(H.B. No. 368, As Amended)

AN ACT

RELATING TO THE STATEWIDE COMMUNICATIONS INTEROPERABILITY EXECUTIVE COUNCIL; AMENDING SECTION 2, CHAPTER 292, LAWS OF 2006, TO EXTEND THE SUNSET DATE; AMENDING SECTION 46-1204, IDAHO CODE, TO REVISE RESPONSIBILITIES; AMENDING SECTION 46-1207, IDAHO CODE, TO PROVIDE FOR THE POSITION OF OPERATIONS MANAGER; AMENDING SECTION 46-1211, IDAHO CODE, TO REVISE COUNCIL MEMBERS; AND AMENDING SECTION 46-1212, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE REGARDING COUNCIL MEMBER TERMS.

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

SECTION 1. That Section 2, Chapter 292, Laws of 2006, be, and the same is hereby amended to read as follows:

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after December 31, 2012~~8~~.

SECTION 2. That Section 46-1204, Idaho Code, be, and the same is hereby amended to read as follows:

46-1204. COUNCIL RESPONSIBILITIES. The responsibilities of the council are to:

(1) Develop and maintain a statewide plan for local and private public safety wireless radio interoperable communications;

(2) Develop, maintain and adopt standards for local and private public safety wireless radio interoperable communications;

(3) Recommend guidelines and standards for operation for local and private public safety wireless radio interoperable communications systems in Idaho;

(4) Promote coordination and cooperation among local, state, federal and tribal public safety agencies in addressing statewide public safety wireless radio interoperable communications needs in Idaho;

(5) Review priorities for statewide public safety wireless radio interoperable communications needs and assist users of the statewide system in the development of projects, plans, policies, standards, priorities and guidelines for public safety wireless radio interoperable communications in coordination and cooperation with public safety communications;

(6) Develop funding recommendations for short-term and long-term system maintenance;

(7) Research best practices of other states;

~~(8) Prepare and present a report to the information technology resource management council by December 30 of each year describing the council's acts and achievements of the previous year;~~

~~(9) Provide recommendations to the governor and the legislature of the state of Idaho, when appropriate, concerning issues related to local and private statewide public safety wireless radio interoperable communications in Idaho and in accordance with homeland security presidential directives;~~

~~(10) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the Idaho statewide interoperability communications fund and programs or projects in progress, completed or anticipated;~~

~~(11) Serve as a conduit for the future allocation of federal grant funds and other nonfederal grants to support the delivery of public safety~~

wireless radio interoperable communications systems directed towards local government and private entities;

(121) Enter into contracts with experts and/or consultants as may be necessary to carry out the purposes of this chapter and to sue and be sued; and

(132) Work in coordination and cooperation with the Idaho emergency communications commission established by section 31-4815, Idaho Code, and the information technology resource management council, established by section 67-5745B, Idaho Code.

SECTION 3. That Section 46-1207, Idaho Code, be, and the same is hereby amended to read as follows:

46-1207. ADMINISTRATIVE SUPPORT. The council may, with concurrence of the governor of the state of Idaho, create the position of an project operations manager and the position of an administrative assistant, which positions shall be exempt from the requirements of the merit system, chapter 53, title 67, Idaho Code. In accordance with the laws of the state, the adjutant general may hire, fix the compensation and prescribe the powers and duties of such other individuals, including consultants, as may be necessary to carry out the provisions of this chapter.

SECTION 4. That Section 46-1211, Idaho Code, be, and the same is hereby amended to read as follows:

46-1211. COUNCIL MEMBERS. (1) The council members shall be appointed by the governor and shall include at a minimum the representatives of the following organizations:

- (a) One (1) representative from the Idaho transportation department;
- (b) One (1) representative from the Idaho sheriffs' association;
- (c) One (1) representative from the Idaho chiefs of police association;
- (d) One (1) representative from the Idaho fire chiefs association;
- (e) One (1) representative from the association of Idaho cities;
- (f) One (1) representative from the Idaho association of counties;
- (g) Two (2) One (1) representatives from the Idaho military division bureau of homeland security;
- (h) ~~One (1) representative from the Idaho department of administration;~~
- ~~(i)~~ One (1) representative from the Idaho department of correction;
- (~~j~~i) One (1) representative from the Idaho state police;
- (~~k~~j) One (1) representative from the Idaho department of lands;
- (~~l~~k) One (1) representative from the Idaho department of fish and game;
- (~~m~~l) One (1) representative from the Idaho department of health and welfare;
- (~~n~~m) One (1) representative from Idaho tribal government; and
- (~~o~~n) Two (2) members at large; and
- (o) One (1) representative from each of the six (6) district interoperable governance boards (DIGBs).

(2) Additional voting members will be invited in the following capacities:

- (a) One (1) liaison from federal law enforcement;
- (b) ~~One (1) liaison from the United States department of homeland security transportation security administration;~~
- ~~(c)~~ One (1) liaison from the United States department of the interior; and
- ~~(d)~~ One (1) liaison from the national interagency fire center.

SECTION 5. That Section 46-1212, Idaho Code, be, and the same is hereby amended to read as follows:

46-1212. COUNCIL MEMBER TERMS. (1) Except as provided in this section, members of the council will be appointed for a term of four (4) years.

~~(2) The following five (5) members shall be appointed for an initial term of two (2) years:~~

- ~~(a) The member representing the Idaho fire chiefs association;~~
- ~~(b) The member representing the Idaho chiefs of police association;~~
- ~~(c) The member representing the Idaho sheriffs' association;~~
- ~~(d) The member representing the Idaho association of counties; and~~
- ~~(e) The member representing the association of Idaho cities.~~

~~(3) The following four (4) members will be appointed for an initial term of three (3) years:~~

- ~~(a) The member representing the Idaho transportation department;~~
- ~~(b) The member representing the Idaho department of administration;~~
- ~~(c) The member representing the Idaho department of lands; and~~
- ~~(d) The member representing the Idaho department of health and welfare.~~

~~(4) Members of the council shall be compensated as provided in section 59-509(b), Idaho Code.~~

(53) New members may be added or members replaced at annual, special or regular council meetings with approval from the office of the governor for the state of Idaho. Upon resignation of a member, the governor may appoint a replacement for the remainder of the vacated term.

Approved April 3, 2012.

CHAPTER 196
(H.B. No. 372)

AN ACT

RELATING TO MINERAL RIGHTS ON STATE LANDS; AMENDING SECTION 47-718, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO REVISE THE INTEREST RATE FOR CERTAIN VIOLATIONS RELATING TO MINERAL EXTRACTIONS ON STATE LANDS.

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

SECTION 1. That Section 47-718, Idaho Code, be, and the same is hereby amended to read as follows:

47-718. VIOLATIONS -- REMEDIES -- PENALTIES. (1) In addition to any other penalties and remedies of this chapter and at law, any person, firm, or corporation who violates any provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed thereby, or who violates any determination or order thereunder or any violation of a lease granted under this chapter, the director of the department of lands may:

(a) Proceed by legal action in the name of the state of Idaho to enjoin the violation, by temporary restraining order, preliminary injunction and/or permanent injunction.

~~1.~~ (i) The court, or a judge thereof at chambers, if satisfied from a verified complaint or by affidavit that the alleged violation has been or is being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents, employees, contractors and assigns from further violation, or from conducting exploration or mining on the state lands affected by the violation.

~~2.~~ (ii) The verified complaint or affidavit that the alleged violation has been or is being committed shall constitute prima facie evidence of great or irreparable injury and/or great waste sufficient to support the temporary restraining order.

3-(iii) The action shall thereafter proceed as in other cases for injunctions. If at the trial the violation is established, the court shall enter a decree perpetually enjoining said defendant, his agents, employees, contractors and assigns from thereafter committing said or similar violations.

(b) Proceed by legal action in the name of the state of Idaho to obtain an order requiring the operator to promptly repair the damage and reclaim the state lands in accordance with the requirements of section 47-703A, Idaho Code, and rules adopted pursuant thereto. If thereafter the court finds that the operator is not promptly complying with such order, the court shall order the operator to immediately pay an amount determined by the department to be the anticipated cost of reasonable repair and reclamation in accordance with section 47-703A(2), Idaho Code, and rules adopted pursuant thereto.

(c) Proceed to forfeit the operator's bond required by section 47-703A(1), 47-704(6) or 47-708, Idaho Code. The board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which includes a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this act. Such complaint may be served by certified mail, and return receipt signed by the lessee, an officer of a corporate lessee, or the designated agent of the lessee shall constitute service. The lessee 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 lessee fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the lessee, and the board may proceed to forfeit the bond in the amount necessary to reclaim affected lands and pay for any outstanding royalties and related administrative costs. The director of the department of lands is empowered to issue subpoenas. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code. The hearing officer shall enter an order in accordance with chapter 52, title 67, Idaho Code. Appeal to a district court shall be in accordance with chapter 52, title 67, Idaho Code.

(d) Cancel the lease in accordance with section 47-707, Idaho Code.

(2) In addition to the injunctive remedies of subsection (1) (a) of this section:

(a) Proceed in the first instance by legal action in the name of the state of Idaho to recover from an operator who without bond has conducted or is conducting exploration with heavy equipment on state lands, including lands between the ordinary high watermarks of navigable rivers, the cost of repairing damage to and reclaiming the affected state lands in accordance with section 47-703A(2), Idaho Code, and rules adopted pursuant thereto; or if the bond on file with the department of lands is not sufficient to adequately reclaim the affected state lands, to recover the cost in excess of the bond to reclaim the affected state lands in accordance with section 47-703A(2), Idaho Code, and rules adopted pursuant thereto.

(b) Proceed by legal action in the name of the state of Idaho to recover from an operator who has removed minerals in commercial quantities from state lands, including lands between the ordinary high watermarks of navigable rivers, in violation of the provisions of section 47-717, Idaho Code, damages in the amount of the prevailing royalty rate set by the board of land commissioners for the particular mineral removed plus interest from the date of removal at the average annual interest legal rate of the investment board interest due on money judgments set by the Idaho state treasurer pursuant to section 28-22-104, Idaho Code, from the date of removal to judgment.

(3) In addition to any other penalties or injunctive remedies of this chapter, any person, firm, or corporation who violates any of the provisions of this 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 chapter, shall be liable to a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each day during which any provision of this chapter, rule or order has been or is being violated. All sums recovered shall be credited to the general fund.

(4) An appeal from a final judgment of the district court shall be taken in the manner provided by law for appeals in civil cases.

Approved April 3, 2012.

CHAPTER 197

(H.B. No. 426, As Amended in the Senate)

AN ACT

RELATING TO EDUCATION; TO PROVIDE A PURPOSE; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1628, IDAHO CODE, TO ESTABLISH THE "8 IN 6 PROGRAM," TO ESTABLISH PROVISIONS RELATING TO THE STATE DEPARTMENT OF EDUCATION PAYING FOR CERTAIN SUMMER ONLINE AND ONLINE OVERLOAD COURSES, TO ESTABLISH CRITERIA RELATING TO PARTICIPATION IN THE PROGRAM, TO ESTABLISH PROVISIONS RELATING TO ELIGIBLE COURSES, TO PROVIDE FOR RULES AND TO PROVIDE DEFINITIONS.

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

SECTION 1. PURPOSE OF ACT. The purpose of this program is to identify those students who are taking courses in grades 7 through 12 at an accelerated rate and provide them with an incentive to participate in dual credit for early completers pursuant to the provisions of Section 33-1626, Idaho Code. The program will provide funding so that a portion of the summer online courses and online overload courses taken by such students will be paid for by the State Department of Education.

SECTION 2. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1628, Idaho Code, and to read as follows:

33-1628. "8 IN 6 PROGRAM." (1) A program is hereby established in the state department of education to be known as the "8 in 6 Program."

(2) If a parent and student agree, by signing the appropriate form provided by the state department of education, to the conditions provided for in paragraphs (2) (a) and (b) of this section, the state department of education will pay for a portion of the cost of summer online courses and online overload courses as provided for in this section from the moneys appropriated for this purpose.

(a) The student and parent agree that the student shall take and successfully complete dual credit or professional-technical education courses for at least a portion of the student's courses during the 11th and/or 12th grade years. Funding for this requirement will not be provided by the "8 in 6 Program."

(b) The student and parent agree that the student shall take and successfully complete at least one (1) summer online or online overload course and a full course load of at least fourteen (14) credits per school year.

(c) The state shall pay two hundred twenty-five dollars (\$225) per one (1) credit summer online course or one (1) credit online overload course taken in this program. Provided however, that if the Idaho digital learning academy (IDLA) receives a state guarantee or appropriation of at least five million dollars (\$5,000,000) for fiscal year 2013, the state shall pay no moneys for the "8 in 6 Program" for that fiscal year, and IDLA shall provide the online courses necessary to meet the needs of the "8 in 6 Program" for that fiscal year, at a cost not to exceed seventy-five dollars (\$75.00) per course.

(d) The state shall pay for no more than two (2) credits of online overload courses per student per school year. The state shall pay for no more than two (2) credits of summer online courses per student per summer. The state shall pay for no more than a combined total of four (4) credits of summer online or online overload courses per student per year. The state shall pay for no more than a combined total of eight (8) credits of summer online and online overload courses per student during such student's participation in the program.

(3) Participation in this program shall be limited to no more than ten percent (10%) of students in each grade 7 through 12. Such limitation shall be applied initially on a school district-by-school district, grade-by-grade basis. If any grades do not fully utilize their available participation slots, the school district shall reallocate said participation slots to those grades in which more than ten percent (10%) of the students have applied for participation in the program. If any school districts do not fully utilize their available participation slots by July 1, the state department of education shall reallocate said participation slots to those districts in which more than ten percent (10%) of the students have applied for participation in the program. Students accepted into the program shall remain in the program from year to year unless they sign a withdrawal form developed by the state department of education. If a participating student transfers from one (1) school district to another, such student shall remain enrolled in the program, the ten percent (10%) participation limitation of the student's new school district notwithstanding. The state department of education shall maintain a list of participants.

(a) If the number of students applying for participation in the "8 in 6 Program" exceeds the number of participation slots available in the school district, the school district shall establish participation preference criteria. Such criteria shall include students who have successfully completed at least one (1) online course prior to participating in the program, and may include any of the following:

- (i) Grade point average;
- (ii) State-mandated summative achievement test results;
- (iii) Other school district administered student assessments.

(b) If a student participating in the program fails to complete with a grade of "C" or better one (1) or more summer online or online overload courses while in the program, the student must pay for and successfully complete a summer online or online overload course with a grade of "C" or better before continuing in the program.

(4) Procedures for participating in the "8 in 6 Program" include the following: The school district shall make reasonable efforts to ensure that any student who considers participating in the program considers the challenges and time necessary to succeed in the program. Such efforts by the district shall be performed prior to a student participating in the program.

(5) Eligible courses. To qualify as an eligible course for the program, the course must be offered by a provider accredited by the organization that accredits Idaho high schools or an organization whose accreditation of providers is recognized by the organization that accredits Idaho high schools. Dual credit, advanced placement and concurrent enrollment courses are not eligible under this program.

(6) The state board of education is hereby authorized to promulgate rules to implement the provisions of this section.

(7) Definitions:

(a) "8 in 6 Program" means the two (2) years of junior high, the four (4) years of high school and the first two (2) years of college or professional-technical preparation that normally take eight (8) years to complete are compressed into six (6) years by taking full course loads during the school year and one (1) or two (2) online courses during the summer or as online overload courses.

(b) "Full course load" means no fewer than fourteen (14) credits per school year.

(c) "Overload course" means a course taken that is in excess of or more than the number of courses taken in the normal school day as a normal school day is defined for fractional average daily attendance purposes by the state department of education.

(d) "Parent" means parent or parents or guardian or guardians.

(e) "School district" means an Idaho school district or a public charter school that provides education to any grades 7-12.

(f) "School year" means the normal school year that begins upon the conclusion of the break between grades and ends upon the beginning of the same break of the following year.

Approved April 3, 2012.

CHAPTER 198

(H.B. No. 439, As Amended, As Amended in the Senate)

AN ACT

RELATING TO DISPENSING OF CONTROLLED SUBSTANCES PRESCRIPTIONS; AMENDING SECTION 37-2726, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE INDIVIDUALS AND ENTITIES THAT MAY ACCESS THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE, TO PROVIDE FOR VIOLATIONS AND PENALTIES RELATING TO THE FAILURE TO SAFEGUARD CERTAIN USER ACCOUNTS, LOGIN NAMES AND PASSWORDS, TO PROVIDE THAT THE BOARD MAY BLOCK CERTAIN ACCESS, TO REMOVE PROVISIONS RELATING TO THE APPLICABILITY OF SPECIFIED DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 37-2730A, IDAHO CODE, TO CLARIFY THAT THE BOARD MAY PROVIDE UNSOLICITED REPORTS TO PHARMACISTS AND PRACTITIONERS.

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

SECTION 1. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances prescriptions shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

(a) Authorized individuals employed by the Idaho's boards responsible for conducting investigations related to or other states' licensing entities charged with the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

(d) A licensed practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;

(e) A licensed pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance, or providing pharmaceutical care as defined in the Idaho pharmacy act;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person;

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(3) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(4) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(5) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(6) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of

individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

(7) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(8) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

(9) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

~~(8) The definitions set forth in section 37-2701, Idaho Code, shall apply to this section.~~

SECTION 2. That Section 37-2730A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

- (a) The furnishing of information under the conditions herein provided;
 - (b) The receiving and use of, or reliance on, such information;
 - (c) The fact that any such information was not furnished; or
 - (d) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.
- (5) The board may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Approved April 3, 2012.

CHAPTER 199
(H.B. No. 443)

AN ACT

RELATING TO FLAGS; AMENDING SECTION 67-2303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE LOCATION AND DISPLAY OF POW/MIA FLAGS; AND AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2303A, IDAHO CODE, TO AUTHORIZE THE DIVISION OF VETERANS SERVICES TO PROMULGATE RULES DIRECTING THE PROPER PROTOCOL FOR THE LOCATION AND DISPLAY OF FLAGS FLOWN ON STATE PROPERTY.

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

SECTION 1. That Section 67-2303, Idaho Code, be, and the same is hereby amended to read as follows:

67-2303. DISPLAY OF POW/MIA FLAG. ~~(1) The POW/MIA flag may be displayed on or in front of the locations prescribed in subsection (2) of this section on any day when the United States flag is displayed and in accordance with rules as promulgated by the division of veterans services pursuant to the provisions of section 67-2303A, Idaho Code.~~

~~(2) The locations for the display of the POW/MIA flag pursuant to subsection (1) of this section are the following:~~

- ~~(a) The state capitol building;~~
- ~~(b) The building that serves as the location of a district court;~~
- ~~(c) The building that serves as the city or town hall of each incorporated city or town; and~~
- ~~(d) The building that serves as the main administrative building of each county.~~

SECTION 2. That Chapter 23, 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 67-2303A, Idaho Code, and to read as follows:

67-2303A. FLAGS -- PROPER PROTOCOL. The division of veterans services is hereby authorized to promulgate rules directing the proper protocol for the location and display of flags flown on state property.

Approved April 3, 2012.

CHAPTER 200
(H.B. No. 452)

AN ACT

RELATING TO BOND ELECTIONS; REPEALING SECTION 34-439, IDAHO CODE, RELATING TO DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-439, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-439, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-439, Idaho Code, and to read as follows:

34-439. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS. (1) Notwithstanding any other provision of law, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the bonds are to be used including, but not necessarily limited to, a description of the facility and/or project that will be financed, in whole or in part, by the sale of the bonds; the date of the election; and the principal amount of the bonds to be issued;
- (b) The anticipated interest rate on the proposed bonds based upon current market rates and a maximum interest rate if a maximum is specified in the question to be submitted to electors;
- (c) The total amount to be repaid over the life of the bonds based on the anticipated interest. Such total shall reflect three (3) components: a total of the principal to be repaid; a total of the interest to be paid; and the sum of both;
- (d) The length of time, reflected in months or years, in which the proposed bonds will be paid off or retired; and
- (e) The total, existing indebtedness, including interest accrued, of the taxing district.

(2) The official statement shall be made a part of the ballot and shall be included in the official notice of the election.

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 3, 2012.

CHAPTER 201
(H.B. No. 458)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO PROVIDE THAT A WOLF TAG WILL BE INCLUDED WITH TAGS ISSUED WITH LICENSES OF THE EIGHTH CLASS; AND AMENDING SECTION 36-416, IDAHO CODE, TO INCREASE THE FEE FOR SPORTSMAN'S PAK LICENSES.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, a fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Junior Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a hunting license, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Junior Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-413, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, a wolf tag, an archery hunt permit, a muzzleloader permit, a steelhead trout permit

and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

- (i) Four dollars (\$4.00) in the set-aside account for the purposes of section 36-111(1) (a), Idaho Code;
- (ii) Two dollars (\$2.00) in the set-aside account for the purposes of section 36-111(1) (b), Idaho Code;
- (iii) One dollar and fifty cents (\$1.50) in the set-aside account for the purposes of section 36-111(1) (c), Idaho Code; and
- (iv) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules of the commission regarding the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the license must be issued without the archery permit validation.

(g) Disabled Persons Licenses -- Combination -- Fishing. A license of the first class may be had by any resident disabled person on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license, entitling the purchaser to the same privileges as the corresponding license of the first class provides. A disabled person means a person who is deemed disabled by one (1) or more, but not necessarily all, of the following: the railroad retirement board pursuant to title 45 of the United States Code, or certified as eligible for federal supplemental security income (SSI); or social security disability income (SSDI); or a non-service-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability; or certified as permanently disabled by a physician. Once determination of permanent disability has been made with the department, the determination shall remain on file within the electronic filing system and the license holder shall not be required to present a physician's determination each year or prove their disability each year.

(h) Military Furlough Licenses -- Combination -- Fishing. A license of the first class may be had by a resident person engaged in the military service of the United States, while on temporary furlough or leave, possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and as specified in section 36-416, Idaho Code, for a fishing license.

(i) Youth Small Game Licenses -- Hunting. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, provided that the license shall be valid only for hunting upland game birds (including turkeys), migratory game birds, cottontail rabbits, huntable furbearers, and unprotected and predatory birds and animals of this state while accompanied in the field by the holder of an adult Idaho hunting license.

SECTION 2. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	\$ 31.75	\$ 238.25
Hunting License	11.00	153.00
Fishing License	24.00	96.50
Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	108.50 114.65	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	30.00
Youth Small Game License	5.50	18.25
Youth Hunter Education Graduate Hunting License	3.25	3.25
Jr. Fishing License	12.00	20.00
Disabled Combination License	3.25	3.25
Disabled Fishing License	3.25	N/A
Military Furlough Combination License	15.75	N/A
Military Furlough Fishing License	15.75	N/A
Small Game Hunting License	N/A	96.00
3 Day Small Game Hunting License	N/A	33.75
Daily Fishing (1st-day) License	9.75	11.00
Consecutive Day Fishing License	5.00	6.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	35.75
Nongame Hunting License	N/A	33.75

For purposes of this subsection, disabled combination licenses provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408 (7), Idaho Code.

(b) Sport Tags

Deer Tag	\$ 18.00	\$ 300.00
Controlled Hunt Deer Tag	18.00	300.00
Jr. or Sr. or Disabled American Veteran Deer Tag	9.00	9.00
Jr. Mentored Deer Tag	N/A	22.00
Elk A Tag	29.00	415.00
Elk B Tag	29.00	415.00
Controlled Hunt Elk Tag	29.00	415.00
Jr. or Sr. or Disabled American Veteran Elk Tag	14.75	14.75
Jr. Mentored Elk Tag	N/A	38.00
Bear Tag	9.75	184.25
Jr. or Sr. or Disabled American Veteran Bear Tag	5.00	5.00
Jr. Mentored Bear Tag	N/A	22.00
Turkey Tag	18.00	78.25
Jr. or Sr. or Disabled American Veteran Turkey Tag	9.00	9.00
Jr. Mentored Turkey Tag	N/A	18.00
Mountain Lion Tag	9.75	184.25
Gray Wolf Tag	9.75	184.25
Antelope Tag	29.50	310.00
Moose Tag	165.00	2,100.00
Sheep Tag	165.00	2,100.00
Goat Tag	165.00	2,100.00
Sandhill Crane Tag	18.00	65.75

For purposes of this subsection, Jr. or Sr. or disabled American veteran tags provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these tags, shall be as defined in section 36-408(7), Idaho Code.

(c) Sport Permits

Bear Baiting Permit	\$ 11.00	\$ 30.00
Hound Hunter Permit	11.00	168.00
WMA Upland Game Bird Permit	22.00	50.00
Archery Permit	16.50	18.25
Muzzleloader Permit	16.50	18.25
Salmon Permit	11.00	24.00
Steelhead Permit	11.00	24.00
Federal Migratory Bird Harvest Info. Permit	0.00	3.00

Disabled Archery Permit	0.00	0.00
2-Pole Fishing Permit	12.00	13.75
Turkey Controlled Hunt Permit	6.00	6.00
Sage/Sharptail Grouse Permit	3.00	3.00
Disabled Hunt Motor Vehicle Permit	0.00	0.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	\$ 65.75	\$ 78.75
Falconry Permit	27.25	N/A
Falconry Capture Permit	N/A	168.00
Jr. Trapping License	5.50	N/A
Trapping License	25.00	300.00
Taxidermist-Fur Buyer License 5 year license	175.00	N/A
1 year license	38.25	168.25
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	265.00
Wholesale Steelhead License	165.00	198.25
Retail Steelhead Trout Buyer's License	33.00	39.25
(e) Commercial Tags		
Bobcat Tag	\$ 3.00	\$ 3.00
Otter Tag	3.00	3.00
Net Tag	55.00	65.75
Crayfish/Minnow Tag	1.25	3.00
(f) Miscellaneous-Other Licenses		
Duplicate License	\$ 5.50	\$ 6.50
Shooting Preserve License	11.00	22.00
Captive Wolf License	22.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	\$ 5.50	\$ 6.50
Wild Bird Shooting Preserve Tag	5.50	6.50

(h) Miscellaneous-Other Permits-Points-Fees

Falconry In-State Transfer		
Permit	\$ 5.50	\$ N/A
Falconry Meet Permit	N/A	26.25
Rehab Permit	3.00	3.00
Educational Fishing Permit	0.00	0.00
Live Fish Importation		
Permit	3.00	3.00
Sport Dog and Falconry Training		
Permit	3.00	3.00
Wildlife Transport Permit	3.00	3.00
Scientific Collection		
Permit	50.00	50.00
Private Park Permit	21.75	26.25
Wildlife Import Permit	21.75	26.25
Wildlife Export Permit	11.00	13.25
Wildlife Release Permit	11.00	13.25
Captive Wildlife Permit	21.75	26.25
Fishing Tournament Permit	21.75	25.00
Dog Field Trial Permit	33.00	40.00
Live Fish Transport Permit	21.75	26.25
Controlled Hunt Application		
Fee	4.50	13.00
Fee for Application for the Purchase of		
Controlled Hunt Bonus or Preference		
Points	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

Approved April 3, 2012.

CHAPTER 202
(H.B. No. 485, As Amended)

AN ACT

RELATING TO INCOME TAX DEDUCTIONS; AMENDING SECTION 63-3022B, IDAHO CODE, TO REVISE THE ELIGIBILITY CRITERIA FOR TAKING A STATE INCOME TAX DEDUCTION FOR INSTALLING ENERGY EFFICIENCY UPGRADE MEASURES WITHIN EXISTING RESIDENCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022B. DEDUCTION FOR INSULATION OF RESIDENCES ENERGY EFFICIENCY UPGRADES. ~~For taxable years commencing on and after January 1, 1976, an (1) An individual taxpayer may deduct from taxable income an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation, but not replacement, of insulation within any existing building in the state of Idaho which serves as a place of residence of the individual taxpayer. As used in this section, "insulation" means any material commonly used in the building industry and actually installed for the purpose of retarding the passage of heat energy into or out of a building, including but not limited to, such items as fiberglass insulation, weather stripping, double pane windows, and storm doors and windows of energy efficiency upgrade measures within any existing residence. As used in this section, "existing building residence" means any building residence that serves as the place of residence of the individual taxpayer in being, under construction, or subject to an outstanding legal building permit on the effective date of this act or before January 1, 2002.~~

(2) As used in this section:

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

(b) "Energy efficiency upgrade measure" includes:

(i) Insulation that shall be added to existing insulation not in replacement of existing insulation;

(ii) Windows that may replace less efficient existing windows;

(iii) Storm windows;

(iv) Weather stripping and caulking; and

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

SECTION 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, 2012.

Approved April 3, 2012.

CHAPTER 203
(H.B. No. 487)

AN ACT

RELATING TO MENTAL HEALTH COMMITMENT; AMENDING SECTION 66-327, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PATIENTS AND TO REVISE A DEFINITION.

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

SECTION 1. That Section 66-327, Idaho Code, be, and the same is hereby amended to read as follows:

66-327. RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PATIENTS. (a) All costs associated with the commitment proceedings, including ~~usual and customary~~ fees of designated examiners, transportation costs and all medical, psychiatric and hospital costs not included in subsection (bc) of this section, shall be the responsibility of the person subject to judicial proceedings authorized by this chapter or such person's spouse, adult children, or, if indigent, the county of such person's residence after all personal, family and third party resources, including medical assistance provided under the state plan for medicaid as authorized by title XIX of the social security act, as amended, are considered. In proceedings authorized by this chapter, the court shall consider the indigency of persons subject to proceedings authorized by this chapter, in light of such person's income and resources, and if such person is able to pay all or part of such costs, the court shall order such person to pay all or any part of such costs. If the court determines such person is unable to pay all or any part of such costs, the court shall fix responsibility, in accordance with the provisions of chapter 35, title 31, Idaho Code, for payment of such costs on the county of such person's residence to the extent not paid by such person or not covered by third party resources, including medical assistance as aforesaid. The amount of payment by a county shall be the medicaid rate, or pursuant to the provisions of any contract between a provider and an obligated county, or if the facility providing the services is a freestanding mental health facility, then the reimbursement rate will be the medicaid rate, for a hospital as defined by section 39-1301(a), Idaho Code, that provides services within the nearest proximity of the mental health facility. Such costs fixed by the court shall be based upon the time services were provided.

(b) An order of commitment pursuant to the provisions of this section shall be sufficient to require the release of all pertinent information related to the committed person, to the court and obligated county, within the restrictions of all applicable federal and state laws.

(bc) The department of health and welfare shall assume responsibility for ~~usual and customary treatment~~ costs after the involuntary patient is ~~dispositioned~~ committed to the custody of the state of Idaho, beginning on the day after the director receives notice that a person has been committed into the custody of the department, until the involuntary patient is discharged and after all personal, family and third party resources are considered in accordance with section 66-354, Idaho Code. The counties shall be responsible for mental health costs as defined in subsection (a) of this section if the individual is not transported within twenty-four (24) hours of receiving written notice of admission availability to a state facility. For purposes of this section, "~~usual and customary treatment~~ costs" shall include routine board, room and support services rendered at a facility of the department of health and welfare; routine physical, medical, psychological and psychiatric examination and testing; group and individual therapy, psychiatric treatment, medication and medical care which can be

provided at a facility of the department of health and welfare. The term "usual and customary treatment costs" shall not include neurological evaluation, CAT scan, surgery, medical treatment, any other item or service not provided at a facility of the department of health and welfare, or witness fees and expenses for court appearances. For the purposes of this section, the notice to the department may be faxed or mailed.

Approved April 3, 2012.

CHAPTER 204
(H.B. No. 494)

AN ACT

RELATING TO THE IDAHO BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COMPOSITION OF THE IDAHO BOARD OF SCALING PRACTICES AND TO PROVIDE THAT UPON EXPIRATION OF A TERM OF OFFICE, A MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 38-1203, Idaho Code, be, and the same is hereby amended to read as follows:

38-1203. IDAHO BOARD OF SCALING PRACTICES -- MEMBERS -- TERMS. (1) A board to be known as the "Idaho board of scaling practices" is hereby created in the department of lands. It shall consist of the director of the department of lands and ~~five~~ six (56) members appointed by the governor from among nominees recommended by the organized and generally recognized forest industry associations or individuals representing the following segments of the timber industry of Idaho: manufacturing, logging and transportation, nonindustrial private forest landowners and industrial forest landowners. ~~Provided not less than that:~~

(a) ~~Two~~ (2) board members shall be appointed from the intermountain forest association, and not less than nominees provided to the governor by companies processing scaled logs within the state of Idaho to represent the interests of the manufacturing segment of the timber industry, one (1) member from companies consuming less than one hundred million (100,000,000) board feet of logs annually and one (1) member from companies consuming more than one hundred million (100,000,000) board feet of logs annually.

(b) ~~Two~~ (2) board members shall be appointed from nominees provided to the governor by the associated logging contractors of Idaho, inc., each association to have to represent the interests of the logging and transportation segment of the timber industry, one (1) member from north of the Salmon river and one (1) member from south of the Salmon river.

(c) One (1) board member shall be appointed from nominees provided to the governor by the Idaho forest owners association to represent the interests of nonindustrial private forest landowners throughout the state. ~~That person shall be chosen from nominees provided to the governor by the Idaho forest owner's association.~~ The person representing nonindustrial private forest landowners shall own not less than one hundred (100) nor more than ~~five~~ fifty thousand (50,000) acres of private forest land and shall not own or control a forest products manufacturing facility within the state. In choosing this person, the governor shall give preference to persons with a demonstrated history of selling timber or logs to a variety of purchasers and who have scaling or forest management experience.

(d) One (1) board member shall be appointed from nominees provided to the governor by timber growing landowners holding more than fifty thousand (50,000) acres of forest land within the state of Idaho, to represent the interests of industrial forest landowners.

(e) No person or legal entity representing the interests of manufacturing or industrial forest landowners shall have more than one (1) board seat at the same time.

(2) The members of the board shall have the qualifications required by section 38-1204, Idaho Code. The members of the board shall be appointed for a three (3) year term. Each member of the board shall take, subscribe and file the oath required by sections 59-401 through 59-408, Idaho Code, before entering upon the duties of his office. On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a term of three (3) years and unexpired terms shall be filled for the unexpired balance of the term. Upon expiration of the term of office, a member shall continue to serve until a successor shall have been appointed.

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 3, 2012.

CHAPTER 205

(H.B. No. 515, As Amended)

AN ACT

RELATING TO COPIES OF CERTAIN REPORTS; AMENDING SECTION 67-1903, IDAHO CODE, TO PROVIDE THAT EACH AGENCY, DEPARTMENT AND COMMISSION SHALL SEEK TO MINIMIZE THE NUMBER OF CERTAIN PRINTED COPIES; AMENDING SECTION 67-1904, IDAHO CODE, TO PROVIDE FOR PERFORMANCE REPORTS AND OTHER DOCUMENTS AND TO PROVIDE THAT EACH AGENCY, DEPARTMENT AND COMMISSION SHALL SEEK TO MINIMIZE THE NUMBER OF CERTAIN PRINTED COPIES.

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

SECTION 1. That Section 67-1903, Idaho Code, be, and the same is hereby amended to read as follows:

67-1903. STRATEGIC PLANNING. (1) Each state agency shall develop and submit to the division of financial management in an electronic format 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.

(6) Each agency, department and commission shall seek to minimize the number of printed copies of strategic plans and annual reports by using electronic versions whenever possible, and by printing only a limited number sufficient for internal needs or anticipated requests for copies for which electronic versions are otherwise inadequate.

SECTION 2. That Section 67-1904, Idaho Code, be, and the same is hereby amended 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 published 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.

(10) Any performance report or document required by this section shall be produced electronically and transmitted to the division of financial management and the legislative services office electronically. Additionally, the agency shall have the performance report or document required by this section available on its website so that the public may access it. Each agency, department and commission shall seek to minimize the number of printed copies of strategic plans and annual reports by using electronic versions whenever possible, and by printing only a limited number sufficient for internal needs or anticipated requests for copies for which electronic versions are otherwise inadequate.

Approved April 3, 2012.

CHAPTER 206
(H.B. No. 518)

AN ACT

RELATING TO CIGARETTE ROLLING MACHINES; AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8420, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT; AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8421, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8422, IDAHO CODE, TO PROVIDE CERTIFICATION FOR CIGARETTE ROLLING MACHINE OPERATORS; AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8423, IDAHO CODE, TO ESTABLISH REQUIREMENTS FOR CERTIFICATION; AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8424, IDAHO CODE, TO PROVIDE THE ATTORNEY GENERAL AND DISTRICT COURT AUTHORITY TO ENFORCE AND ENTER ORDERS FOR VIOLATIONS OF THIS ACT; AND AMENDING CHAPTER 84, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8425, IDAHO CODE, TO PROVIDE FOR RULEMAKING.

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

SECTION 1. That Chapter 84, 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 39-8420, Idaho Code, and to read as follows:

39-8420. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that the commercial use of cigarette rolling machines in this state has the potential to circumvent various requirements under Idaho law related to the manufacturing, marketing, sale and taxation of cigarettes. Such use is to the detriment of the fiscal soundness of the state and the public health.

(2) This legislation is intended to ensure that cigarette rolling machine operators comply with applicable Idaho laws governing the manufacturing, marketing, sale and taxation of cigarettes and that the use of such cigarette rolling machines will not circumvent these laws and undercut the purposes for which they were enacted.

SECTION 2. That Chapter 84, 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 39-8421, Idaho Code, and to read as follows:

39-8421. DEFINITIONS. As used in sections 39-8420 through 39-8425, Idaho Code:

(1) The definitions set forth in section 39-8402, Idaho Code, of the Idaho tobacco master settlement agreement complementary act, and in this section, apply to sections 39-8420 through 39-8425, Idaho Code.

(2) "Cigarette rolling machine" means any machine or device that has the capability to produce at least one hundred fifty (150) cigarettes in less than thirty (30) minutes.

(3) "Cigarette rolling machine operator" means any person who owns or leases or otherwise has available for use a cigarette rolling machine and makes such a machine available for use by another person in a commercial setting in order to manufacture a cigarette. No person shall be deemed a cigarette rolling machine operator based solely upon that person's manufacture, sale, enabling, disabling, or repair of a cigarette rolling machine.

(4) "Minor" has the same meaning as that term is defined in section 39-5702(6), Idaho Code, of the Idaho prevention of minors' access to tobacco act.

(5) "Person" means natural persons, corporations both foreign and domestic, trusts, partnerships both limited and general, incorporated or unincorporated associations, companies, business entities, and any other legal entity, or any other group associated in fact although not a legal entity.

(6) "Tobacco products" has the same meaning as that term is defined in section 39-5702(13), Idaho Code, of the Idaho prevention of minors' access to tobacco act.

SECTION 3. That Chapter 84, 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 39-8422, Idaho Code, and to read as follows:

39-8422. CERTIFICATION OF CIGARETTE ROLLING MACHINE OPERATORS. A cigarette rolling machine operator may not locate at, offer, or make a cigarette rolling machine available for use, or offer for sale cigarettes manufactured by the operator or any other person at the location of the operator's cigarette rolling machine, until the operator has first been certified by the attorney general upon a form prescribed by the attorney general. The attorney general shall annually certify a cigarette rolling machine operator, but only after he has obtained adequate certification from the operator, as set forth in section 39-8423, Idaho Code, and has been provided by the operator sufficient information identifying the operator, the location, the make and brand of the operator's cigarette rolling machine, and the person(s) from whom the operator will purchase its tobacco for purposes of the operator's cigarette rolling machine's manufacturing of cigarettes.

SECTION 4. That Chapter 84, 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 39-8423, Idaho Code, and to read as follows:

39-8423. REQUIREMENTS FOR CERTIFICATION. (1) Before a cigarette rolling machine operator may be certified by the attorney general, the operator shall certify, under penalty of perjury, that:

(a) All tobacco to be used in the operator's cigarette rolling machine, regardless of the tobacco's label or description thereof, will only be of a brand family and of a tobacco product manufacturer listed on the directory maintained by the attorney general pursuant to section 39-8403, Idaho Code, of the Idaho tobacco master settlement agreement complementary act;

(b) All applicable state tobacco taxes have been paid, as required by the cigarette and tobacco products tax act, chapter 25, title 63, Idaho Code, for the tobacco to be used in the operator's cigarette rolling machine;

(c) The operator has obtained, and has a current permit issued, pursuant to section 39-5704, Idaho Code, of the Idaho prevention of minors' access to tobacco act;

(d) All cigarette tubes used in the operator's cigarette rolling machine shall be constructed of paper of a type determined by the attorney general, pursuant to regulations to be promulgated by the attorney general, to reduce the likely ignition propensity of cigarettes to be made with such tubes;

(e) (i) At any location where the operator has a cigarette rolling machine, seventy-five percent (75%) of the revenues of the operator's total merchandise sales at that location are comprised of tobacco products, or

(ii) The location where the cigarette rolling machine is situated prohibits minors from entering the premises;

(f) The operator will not sell cigarettes or make a cigarette rolling machine available for use, in any quantity less than twenty (20) cigarettes per transaction, except for samples prepared in connection with the purchase or prospective purchase of tobacco and consumed or destroyed at the premises where the cigarette rolling machine is located; and

(g) The operator will not accept or allow its cigarette rolling machine to be used to manufacture cigarettes with tobacco that was not first purchased or obtained from the operator and for which the operator will timely and properly report to the attorney general as set forth in subsection (2) of this section.

(2) After being certified, the cigarette rolling machine operator shall annually certify, under penalty of perjury, to the provisions set forth in subsection (1) of this section. Additionally, the operator shall quarterly report to the attorney general on a form prescribed by the attorney general:

(a) The number of cigarettes that the operator's cigarette rolling machine manufactured during that quarter;

(b) The brand families, the tobacco product manufacturer of each brand family, and the ounces of tobacco of each such brand family that were used in the operator's cigarette rolling machine to manufacture cigarettes during the quarter; and

(c) The person or persons from whom the operator purchased or obtained the tobacco that the operator's machine used to manufacture cigarettes.

(3) The cigarette rolling machine operator's annual certification shall be due to the attorney general no later than the thirtieth day of April each year.

(4) All tobacco certified under subsection (1) (a) of this section shall be deemed to be "roll-your-own" tobacco for purposes of section 39-7802(d), Idaho Code, of the Idaho tobacco master settlement agreement act.

(5) A cigarette rolling machine operator shall not be required to comply with the provisions of section 39-8423(1) (d), Idaho Code, until the attorney general has promulgated rules implementing this subsection, pursuant to section 39-8425, Idaho Code, and the effective date provided for such rules has passed.

SECTION 5. That Chapter 84, 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 39-8424, Idaho Code, and to read as follows:

39-8424. VIOLATIONS -- ATTORNEY GENERAL AND DISTRICT COURT AUTHORITY -- REVOCATION OF CERTIFICATION. (1) Any person who violates any provision of this act, or any certification provided by the attorney general, is subject to the imposition of a civil penalty by the district court in the amount set forth in section 39-8406(1), Idaho Code. The attorney general and the district courts shall have the same authority in enforcing and carrying out the provisions of this section as is granted the attorney general and district courts under sections 39-8406 and 39-8407, Idaho Code, of the Idaho tobacco master settlement agreement complementary act.

(2) In addition to the authority set forth in subsection (1) of this section:

(a) The district court shall have the authority to revoke the cigarette rolling machine operator's tobacco permit issued by the department of health and welfare, pursuant to the Idaho prevention of minors' access to tobacco act, for a period of at least three (3) months but up to one (1) year.

(b) (i) The attorney general may suspend or revoke a cigarette rolling machine operator's certification for violation of any

provisions of this act or the operator's certification or any rule adopted by the attorney general pursuant to this act.

(ii) A determination by the attorney general to deny a certification application or to suspend or revoke a cigarette rolling machine operator's certification shall be subject to review in the manner prescribed by Idaho's administrative procedure act, chapter 52, title 67, Idaho Code. In instances where a certification is suspended or revoked, the cigarette rolling machine operator may not thereafter use or make the machine available for use and shall have ten (10) days after receiving actual notice that its certification has been suspended or revoked to remove the machine from the operator's commercial premises. If the operator fails to remove the cigarette rolling machine within this time period, the machine shall be deemed contraband and subject to seizure and forfeiture. During the period in which the operator's certification has been suspended or revoked, the operator may store the machine at a storage site so long as the machine is not used by or available to persons for use to manufacture cigarettes.

(3) No person who manufactures a cigarette using a cigarette rolling machine shall sell or offer that cigarette for sale in this state. This prohibition shall not apply to any person holding a federal license as a cigarette manufacturer.

(4) Unless expressly provided, the remedies or penalties provided by this act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

SECTION 6. That Chapter 84, 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 39-8425, Idaho Code, and to read as follows:

39-8425. RULEMAKING. The attorney general may adopt rules to implement this act. With respect to section 39-8423(1)(d), Idaho Code, the attorney general shall adopt rules with an effective date that is no earlier than July 1, 2013. In adopting rules implementing subsection 39-8423(1)(d), Idaho Code, the attorney general may provide for an effective date that is later than July 2, 2013, if, in his discretion, such later effective date is warranted.

Approved April 3, 2012.

CHAPTER 207
(H.B. No. 539)

AN ACT

RELATING TO THE IDAHO VIDEO SERVICE ACT; AMENDING TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 50, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR FRANCHISING AUTHORITY, TO PROVIDE FOR MODIFICATIONS OF EXISTING FRANCHISE AGREEMENTS, TO PROVIDE FOR A HOLDER OF CERTIFICATE, TO PROVIDE FOR AMENDMENT OF THE CERTIFICATE OF FRANCHISE AUTHORITY, TO PROVIDE FOR PROVISION OF ACCESS TO VIDEO SERVICE WITHIN A CERTAIN PERIOD, TO PROVIDE FOR SUSPENSION OF AUTHORITY FOR NONCOMPLIANCE WITH CERTAIN REQUIREMENTS, TO PROVIDE FOR FEES, TO PROVIDE FOR THE USE OF PUBLIC RIGHTS-OF-WAY, TO PROVIDE FOR A VIDEO SERVICE PROVIDER FEE, TO PROHIBIT DISCRIMINATION AMONG POTENTIAL RESIDENTIAL SUBSCRIBERS AND TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR CUSTOMER SERVICE STANDARDS, TO PROVIDE FOR DESIGNATION AND USE OF CHANNEL CAPACITY FOR PUBLIC, EDUCATIONAL OR GOVERNMENTAL USE AND TO PROVIDE FOR APPLICABILITY OF OTHER LAW; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 50, Idaho Code, and to read as follows:

CHAPTER 30
IDAHO VIDEO SERVICE ACT

50-3001. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Video Service Act."

50-3002. DEFINITIONS. As used in this chapter:

(1) "Access to video service" means the capability of a video service provider to provide video service at a household address irrespective of whether a subscriber has ordered the service or whether the service is actually provided at the address.

(2) "Cable service" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2012.

(3) "Cable system" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2012.

(4) "Certificate of franchise authority" means a certificate issued by the Idaho secretary of state to a video service provider pursuant to the provisions of this chapter.

(5) "Chapter" means chapter 30, title 50, Idaho Code.

(6) "Franchise" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2012. A certificate of franchise authority issued pursuant to section 50-3003, Idaho Code, shall constitute a franchise for the purposes of 47 U.S.C. section 522.

(7) "Franchising entity" means the state of Idaho or a city or county within the state of Idaho authorized by state or federal law to grant a franchise.

(8) "Governing body" means the city council or the board of county commissioners of a political subdivision.

(9) "Incumbent cable service provider" means a person who provides cable service and holds a franchise issued by a franchising entity prior to July 1, 2012.

(10) "Local unit of government" means a city, county, highway district or other governmental entity of the state of Idaho having maintenance and op-

eration responsibility over the public rights-of-way within a geographical area for which a franchise or certificate of franchise authority has been issued by a franchising entity.

(11) "Nonincumbent video service provider" means:

(a) A person authorized under the provisions of this chapter to provide video service in an area in which cable service is being provided by an incumbent cable service provider; or

(b) A person authorized under the provisions of this chapter to provide video service in a geographical area in which, on July 1, 2012, there was no incumbent cable service provider providing cable service.

(12) "Political subdivision" means a city or county of the state of Idaho.

(13) "Public rights-of-way" means the area on, below or above a public roadway, highway, street, public sidewalk, alley, waterway or utility easement dedicated for compatible uses.

(14) "Service area" means contiguous geographical territory in the state of Idaho within which territory a video service provider is authorized to provide video service pursuant to a certificate of franchise authority.

(15) "Service tier" means a category of video service provided by a video service provider to a subscriber and for which a separate rate is charged by the video service provider.

(16) "Subscriber" means any person in this state who purchases video service. "Subscriber" does not include any person who purchases video service for resale and who, upon resale, is required to pay a video service provider fee pursuant to this chapter or pursuant to the terms of a local franchise.

(17) "System operator" means any person or group of persons who provide video service and directly, or through one (1) or more affiliates, own a significant interest in the system or facilities through which the video service is provided and which person has been issued a certificate of franchise authority pursuant to the provisions of this chapter.

(18) "Video service" means the delivery of video programming to subscribers, which programming is generally considered comparable to video programming delivered to viewers by a television broadcast station, cable service or digital television service, without regard to the technology used to deliver the video service, and which service is provided primarily through equipment or facilities located in whole or in part in, on, under or over any public rights-of-way. The term includes cable service, but excludes any video programming provided to persons in their capacity as subscribers to commercial mobile service as defined in 47 U.S.C. section 332(d), or video programming provided as part of and via a service that enables end users to access content, information, electronic mail or other services offered over the public internet.

(19) "Video service provider" means a provider of video service, and includes an incumbent cable or multichannel video service provider, a nonincumbent video service provider or a system operator, unless the context in which the term is used indicates otherwise.

(20) "Video service provider fee" means the amount paid by a system operator to a political subdivision pursuant to section 50-3007, Idaho Code.

50-3003. FRANCHISING AUTHORITY -- APPLICATION FOR CERTIFICATE OF FRANCHISE AUTHORITY -- MODIFICATION OF SERVICE AREAS -- TERM OF CERTIFICATE OF FRANCHISE AUTHORITY AND TERMINATION THEREOF. (1) On and after July 1, 2012, no person shall act as a video service provider or operate a video service network within the state of Idaho unless such person:

(a) Is an incumbent cable service provider providing cable service within an existing franchise area by permission of, or pursuant to, a franchise from a political subdivision in effect on the effective date of this chapter or a subsequent renewal thereof; or

- (b) Is a nonincumbent cable service provider who:
- (i) Elects to negotiate a franchise agreement in accordance with title VI of the communications act of 1934, as amended, 47 U.S.C. section 521 et seq., with a political subdivision, which agreement establishes the terms and conditions applicable to that person to provide cable or video service within the jurisdictional boundaries of such political subdivision and has been issued a franchise from the political subdivision for such purpose; or
 - (ii) Elects to adopt the terms and conditions of an existing franchise issued by a political subdivision to an incumbent cable service provider providing video service within the same service area and who has been issued a franchise from the political subdivision authorizing the video service provider to provide video services within the political subdivision pursuant to the same terms and conditions as the franchise issued to the incumbent cable service provider in the political subdivision; or
- (c) Has been granted a certificate of franchise authority to do business in the state of Idaho as a system operator by the Idaho secretary of state, as authorized in this chapter.
- (2) (a) Nothing in this chapter shall be construed to prohibit a person from holding a franchise issued by a political subdivision and holding a certificate of franchise authority issued by the Idaho secretary of state for a different service area. Provided however, a video service provider shall not hold a franchise issued by a political subdivision and a certificate of franchise authority issued by the secretary of state for the same service area, except as permitted pursuant to paragraph (b) of this subsection.
- (b) An incumbent cable service provider may submit an application for a certificate of franchise authority for a service area in which the incumbent cable service provider has an existing franchise from a political subdivision for such service area and, upon the granting of a certificate of franchise authority to the incumbent cable service provider, the incumbent cable service provider's franchise from the political subdivision shall no longer be of any force or effect.
- (c) It shall be in an incumbent cable operator's sole discretion to determine, in each service area wherein it provides cable service, whether or not to apply for a certificate of franchise authority or continue to provide service under an existing franchise issued by a political subdivision.
- (3) Any person seeking a certificate of franchise authority shall submit an application to the Idaho secretary of state that is in accordance with the requirements of this chapter and sets forth the following information:
- (a) The name of the applicant and the address of its principal place of business within the state of Idaho and the names of the applicant's principal executive officers and its primary Idaho representative;
 - (b) A specific identification of the political subdivision(s) constituting the service area wherein the applicant intends to provide video service;
 - (c) The date on which the applicant intends to begin providing video service in the service area described in the application;
 - (d) Verification signed by an officer or general partner of the applicant that:
 - (i) The applicant has filed with the federal communications commission all forms required by that agency in advance of offering video service in this state; and
 - (ii) The applicant is legally, financially and technically qualified to provide video service; provided however, that a cable operator that was providing cable service in Idaho pursuant to a franchise in effect on the day before the effective date of this

section shall be deemed to be legally, financially and technically qualified to provide service; and

(e) Verification that the applicant has procured and will maintain comprehensive general liability insurance coverage and automobile liability insurance coverage underwritten by one (1) or more companies licensed to do business in the state of Idaho requiring that the insurance carrier pay on behalf of the applicant, to a limit of not less than five hundred thousand dollars (\$500,000) for bodily or personal injury, death, or property damage or loss as a result of any one (1) occurrence or accident, regardless of the number of persons injured or the number of claimants, arising out of the negligent or otherwise wrongful act or omission of the applicant or applicant's employees or agents. Verification that a certificate of self-insurance has been issued to the applicant and maintained in accordance with the provisions of section 49-1224, Idaho Code, shall be deemed to satisfy the requirements of this subsection.

(4) The application shall be accompanied by a filing fee as set forth in section 50-3005, Idaho Code. Within thirty (30) days after filing of the application, or within thirty (30) days after the filing of supplemental information necessary to make the application complete, the secretary of state shall determine the completeness of an application or, if applicable, shall notify the applicant of a determination that the application or the application as supplemented by additional information is incomplete, state the basis for that determination, and inform the applicant that the applicant may resubmit a correct application. The secretary of state shall issue a certificate of franchise authority within fifteen (15) days after the secretary of state's determination that the filed application is complete and in compliance with the requirements of this chapter. Upon issuance of a certificate of franchise authority, the secretary of state shall, within fifteen (15) days from the date of such issuance, provide written notice of such issuance, provide written notice of such issuance to the governing body of each political subdivision and of each local unit of government located within the service area designated in the application for a certificate of franchise authority.

(5) A holder of a certificate of franchise authority may modify the boundaries of an existing service area authorized under the certificate by filing written notice of the modification with the secretary of state accompanied by the fee required by section 50-3005, Idaho Code. The holder of the certificate may make the modification on the date on which it files the written notice with the secretary of state.

(6) A certificate of franchise authority may be transferred to any successor of the system operator to which the certificate of franchise authority was initially issued upon the successor filing an application containing the same information as required in subsection (3) of this section. A successor may only undertake operation and maintenance of video facilities pursuant to an approved certificate of franchise authority upon providing notice to the local unit of government with jurisdiction concerning the public rights-of-way to be used. A successor shall be responsible to conform to approved plans and permits to coordinate installation and maintenance as required by the local unit of government.

(7) A certificate of franchise authority may be terminated by the system operator submitting a written notice to the secretary of state and any affected local unit of government. No approval of the termination of the certificate of franchise authority shall be required by the secretary of state or by any affected local unit of government. Termination of a certificate of franchise authority shall not relieve a system operator of any obligation to mitigate the effects of abandoned physical facilities remaining in any public rights-of-way.

(8) A certificate of franchise authority shall be nonexclusive and shall be for an initial term of ten (10) years, subject to changes in federal law. A certificate of franchise authority may be renewed for additional ten (10) year periods for system operators in compliance with the requirements of subsection (3) of this section.

(9) To the extent required for the purposes of 47 U.S.C. sections 521 through 561, the state of Idaho shall constitute the franchising authority for system operators in the state of Idaho.

(10) The duties of the secretary of state pursuant to this chapter are ministerial.

50-3004. PROVISION OF ACCESS TO VIDEO SERVICE WITHIN A CERTAIN PERIOD -- SUSPENSION OF AUTHORITY FOR NONCOMPLIANCE WITH CERTAIN REQUIREMENTS. (1) Not later than twenty-four (24) months after the date on which the secretary of state issues a certificate of franchise authority pursuant to section 50-3003, Idaho Code, the holder of the certificate must provide access to video service within the territorial boundaries of each service area identified in and authorized by the certificate of franchise authority.

(2) If a holder of a certificate of franchise authority does not provide access to video service to at least one (1) household within the territorial boundaries of a service area within twenty-four (24) months from the date the certificate of franchise authority authorized the provision of video service within the service area, the holder's certificate of franchise authority shall be deemed to be revoked by operation of law as to such service area without the need for any notice, hearing or action by the secretary of state and such certificate of franchise authority shall not thereafter authorize the provision of video service within such service area by the holder of the certificate.

50-3005. FEES. (1) In carrying out the provisions of this chapter, the secretary of state shall charge and collect the fees set forth in this section.

(2) The filing fee for accepting an application for a certificate of franchise authority shall be one thousand dollars (\$1,000), which fee shall include issuance of a certificate of franchise authority by the secretary of state.

(3) The filing fee for accepting an amendment to a certificate of franchise authority or providing a notice required by this chapter shall be five hundred dollars (\$500).

50-3006. USE OF PUBLIC RIGHTS-OF-WAY BY A HOLDER OF A CERTIFICATE OF FRANCHISE AUTHORITY. (1) A local unit of government shall allow the holder of a certificate of franchise authority to install, construct and maintain facilities within the public rights-of-way, over which the local unit of government has jurisdiction, to enable the provision of video services to subscribers to such services. No provision of this chapter shall diminish or otherwise limit the authority of this state, highway district or other local unit of government having jurisdiction over the public rights-of-way. Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of any applicable local ordinance or other regulation governing the use of the public rights-of-way.

(2) If no local code, ordinance, resolution or other regulation by the local unit of government regulates the installation of physical facilities within public rights-of-way, the following requirements shall be deemed the minimum standards for such activities:

(a) At least thirty (30) days prior to contemplated construction within public rights-of-way, a specific description of the locations where the facilities are proposed to be installed within the public rights-of-way and the construction methods that are proposed must be provided to the

local unit of government responsible for the rights-of-way procurement or maintenance.

(b) A certificate of franchise authority granted pursuant to this chapter carries with it an obligation to respect orderly management and maintenance of public rights-of-way by the system operator. A system operator authorized hereby to use public rights-of-way shall employ sound construction practices to maintain the integrity of public improvements and preexisting rights-of-way conditions and shall be responsible for repair or replacement of any improvements or maintenance or restoration of any conditions disrupted by construction activities. The system operator shall cause any such repair or replacement to be made promptly and in a manner that complies with adopted standards or as is otherwise appropriate to restore the rights-of-way to conditions existing before installation.

(c) The certificate of franchise authority granted pursuant to this chapter also carries a duty to coordinate installation of any physical plant in public rights-of-way with the public utilities or municipal services already using or contemplating use of the same or related public rights-of-way. Such coordination shall endeavor to minimize conflicts and avoid damage to existing or otherwise planned facilities.

(3) A local unit of government shall provide the holder of a certificate of franchise authority with open, comparable, nondiscriminatory and competitively neutral access to the public rights-of-way within its jurisdiction.

(4) A local unit of government may not impose requirements that discriminate against a system operator in any manner, including:

(a) The authorization or placement of facilities in public rights-of-way that is necessary for the provision of video services;

(b) Access to a public building; or

(c) The terms or conditions for access to any utility pole within the control of the local unit of government.

(d) Provided however, the provisions of this subsection shall not be construed to supersede an agreement, or portion of an agreement, related to the joint use of utility infrastructure within the control of the local unit of government, between the local unit of government and a video service.

(5) A local unit of government may impose a permit or license fee on a system operator relating to the opening, closing, inspection or repair of public rights-of-way over which rights-of-way the local unit of government has jurisdiction, but only to the extent it imposes such a fee on other video service providers. A fee authorized in this section shall not exceed the actual costs incurred by the local unit of government that are directly related to the system operator's activity in the rights-of-way with which the permit is associated. In no event may a fee under this subsection be charged:

(a) If the system operator, or its affiliate, already has paid a permit fee in connection with the same activity in the public rights-of-way that would otherwise be covered by the permit fee under this section; or

(b) For general revenue purposes.

50-3007. VIDEO SERVICE PROVIDER FEE. (1) A system operator providing video service within a political subdivision pursuant to a certificate of franchise authority shall pay to the political subdivision in which it provides video service a video service provider fee as may be required by the political subdivision pursuant to this section. For the purposes of this section, subscribers whose service address is within the jurisdictional limits of a city shall be deemed city subscribers and those subscribers whose service address is outside the jurisdictional limits of a city shall be deemed county subscribers.

(2) The obligation to pay such a fee shall commence upon commencement of the provision of video service to subscribers. The video service provider's

fee shall be paid to the political subdivision in which it provides video service on a quarterly basis, forty-five (45) days after the close of each calendar quarter, and shall be calculated as a percentage of gross revenues, as defined in subsection (4) of this section. Except as provided in section 50-3006, Idaho Code, the political subdivision may not require any additional fees or charges from the system operator and may not require the use of any other calculation method.

(3) The fee authorized by this section shall be a percentage of gross revenue, as defined in this section, and shall be determined by the political subdivision. If there is an incumbent cable service provider providing cable service in the political subdivision, the system operator shall pay an amount equal to the percentage of gross revenue paid by an incumbent cable service provider or five percent (5%), whichever is less. If there is no incumbent cable service provider having a franchise agreement with the political subdivision, or if a political subdivision has not previously established and assessed such fee to an incumbent cable service provider, the fee shall be established by the political subdivision, in an amount not in excess of five percent (5%) of the gross revenue, which fee shall be applicable to all video service providers within the political subdivision, regardless of whether they provide video service pursuant to a local franchise or a certificate of franchise authority.

(4) (a) For purposes of this section:

(i) "Gross revenues" means all revenues, calculated in accordance with generally accepted accounting principles (GAAP), that are received by the system operator from subscribers for the provision of video service to subscribers within the jurisdictional limits of the political subdivision. Gross revenues shall include the following:

1. All recurring charges and fees paid by subscribers for the provision of video service; equipment rental charges, late fees and insufficient funds fees; and fees attributable to video service when sold individually or as part of a package or bundle, or functionally integrated with services other than video services. The term "gross revenues" shall not include any charges resulting from action by a federal agency or taxes or surcharges imposed by a governmental body which are separately itemized and billed by a video service provider to its subscribers;
2. Event-based charges for video service, including pay-per-view and video-on-demand; and
3. Any other consideration a system operator receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue.

(ii) Notwithstanding any provision of this chapter, if a franchise agreement between a political subdivision and an incumbent cable service provider in effect on July 1, 2012, defines the term "gross revenues," which definition includes revenues in addition to the revenues set forth in the definition of gross revenues in subsection (4) (a) of this section, the video service provider fee paid by any system operator providing service within a political subdivision pursuant to a certificate of franchise authority issued on or after July 1, 2012, pursuant to this chapter, shall be calculated based upon the definition of gross revenues set forth in the franchise agreement between a political subdivision and an incumbent cable provider in effect on July 1, 2012.

(b) In the case of a video service that is bundled or integrated functionally with other services, capabilities or applications, the

portion of the system operator's revenue attributable to the other services, capabilities or applications shall be included in gross revenues unless the provider can reasonably identify the division or exclusion of the revenue from its books and records, which may include the provider's tax billing records, that are kept in the regular course of business.

(c) Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate would have the effect of evading the payment of the video service provider fee that would otherwise be paid for video service.

(5) Payment of the fees as required in this section shall be accompanied by a written report identifying the amount of revenues received from subscribers for the provision of video services to the subscribers and identifying exclusions from gross revenues, if any. A political subdivision may, upon reasonable advance written notice, but not more frequently than once in any calendar year, review the business records of a system operator to the extent necessary to ensure proper and accurate payment of the video service provider fee. A system operator shall provide sufficient information about such revenues to a political subdivision to allow a proper compliance review by such political subdivision. The system operator shall keep all business records reflecting any gross revenues, even if there is a change in ownership, for at least three (3) years after those revenues are recognized by the system operator in its books and records. All records reasonably necessary for the audit shall, at the discretion of the political subdivision, be made available by the system operator at the location within the jurisdiction where the records are kept in the ordinary course of business, or may be provided electronically to the political subdivision with its consent. The political subdivision and the system operator shall each be responsible for their respective costs of the audit, unless the audit discloses that the system operator has underpaid the video service provider fee by more than seven percent (7%) during the examination period, in which case the system operator shall pay all of the reasonable and actual costs of the audit. Any undisputed amount or refund due to the political subdivision or the system operator shall be paid within sixty (60) days, plus interest at the statutory rate on civil judgments.

(6) A system operator may identify and collect the amount of the video service provider fee as a separate line item on the regular bill of each subscriber.

(7) Any city annexing lands shall notify a system operator in writing of any such annexation, including a description of the territory annexed. Beginning the first day of the calendar quarter occurring after the system operator has received at least forty-five (45) days' notice of annexation of customers into the city's corporate limits, subscribers within such annexed territory shall, for purposes of this section, be considered to be city subscribers.

50-3008. DISCRIMINATION AMONG POTENTIAL RESIDENTIAL SUBSCRIBERS PROHIBITED -- VIOLATIONS. (1) A system operator shall not deny access to video service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides.

(2) For purposes of determining whether a system operator has violated the provisions of this section, cost, density, distance and technological or commercial limitations shall be taken into account. An alleged violation shall only be considered within the description of the service area set forth in a certificate of franchise authority. The inability to serve an end user because a holder of such certificate is prohibited from placing its own facilities in a building or property shall not be found to be a violation of the provisions of this section. The requirements of this subsection shall not be construed as authorizing any build-out requirements on a system operator.

(3) Any potential residential subscriber or group of residential subscribers who believes it is being denied access to services in violation of the provisions of this section may file a complaint with the governing authority of the political subdivision within the service area of the system operator in which the subscribers or potential subscribers reside. The complaint shall provide a clear statement of the facts and information upon which it bases the complaint. Upon receipt of any such complaint, the governing authority shall serve a copy of the complaint and supporting materials upon the subject system operator, and shall require the system operator to submit a written answer and other relevant information in response to the complaint within thirty (30) days from service of the complaint on the system operator. If the governing authority, after examination of the complaint and answer thereto, is not successful in informally resolving the dispute, the governing authority may require the system operator and the complainants to enter into mediation. Alternatively, either party may seek judicial determination of the issues. If a court finds that the holder of a certificate of franchise authority is denying access to video service to any group of potential residential subscribers because of the income level of the residents in the local area in which such group resides, the holder of a certificate of franchise authority shall provide access to video service to the affected group of potential subscribers within a reasonable period of time, as specified by the court, to cure such noncompliance.

50-3009. CUSTOMER SERVICE STANDARDS. A system operator shall comply with the customer service requirements as set forth in 47 CFR 76.309(c), as amended from time to time, and shall maintain a local or toll-free telephone number for customer service contact. A political subdivision may provide such assistance to subscribers as the political subdivision may deem appropriate to enforce the provisions of this section.

50-3010. DESIGNATION AND USE OF CHANNEL CAPACITY FOR PUBLIC, EDUCATIONAL OR GOVERNMENTAL USE. (1) On, or within a reasonable period of time after, the date on which a system operator first provides video service to a subscriber within the service area of a political subdivision, a system operator shall designate a sufficient amount of capacity on its video service network to allow the provision of public, educational and governmental access channels or their functional equivalents, hereinafter referred to in this section as PEG channels, for noncommercial programming, as follows:

(a) Designate a sufficient amount of capacity on its network to allow the provision of PEG channels equal in number to those that have been activated by an incumbent cable service provider on the date on which the system operator first provides video service to a subscriber within such political subdivision.

(b) If there is no incumbent cable service provider or no PEG channels have been activated within the jurisdictional limits of the political subdivision located within the system operator's service area on the date on which the system operator first provides video service to a subscriber within such service area, the system operator shall, upon request, provide a maximum of two (2), in total, PEG channels for a political subdivision with a population of at least fifty thousand (50,000), and one (1), in total, PEG channel for a political subdivision with a population of less than fifty thousand (50,000). Provided however, a request by a political subdivision for the provision of PEG channels by a system operator, or a waiver of the requirement to provide PEG channels, shall be uniformly applied to all system operators providing video service within the political subdivision.

(c) The number of PEG channels set forth in paragraphs (a) and (b) of this subsection shall constitute the total number of PEG channels that a system operator may be required to designate on any single head-end or

hub office, or on all commonly owned video service networks that share a common head-end or hub office, regardless of the number of political subdivisions served from such head-end or hub office. If more than one (1) political subdivision is served by a single or common head-end or hub office, the populations within the jurisdictions of all those political subdivisions shall be aggregated to determine the total number of PEG channels under paragraphs (a) and (b) of this subsection.

(d) PEG channels provided by a system operator may be located by the system operator on any service tier subscribed to by more than fifty percent (50%) of a system operator's subscribers. PEG channels shall be of similar quality and functionality to that offered by commercial channels on such tier of service unless the signal is provided to the system operator at a lower quality or with less functionality.

(e) A system operator shall not change a channel location assigned to any PEG channel without written notice to the affected political subdivision at least sixty (60) days before the date on which the change is to become effective.

(f) The PEG agency producing the PEG programming and transmitting it to the system operator shall ensure that all transmissions, content or programming to be transmitted to the system operator are provided or submitted in a manner or form that is capable of being accepted and transmitted by the system operator over its video service network without alteration or change in the content or transmission signal and is compatible with the technology or protocol utilized by the system operator to deliver its video service. If the PEG agency cannot produce or maintain PEG programming in that manner or form, the agency shall do so in a manner that conforms to the then existing industry standards. If a change by the PEG agency in the manner or form of the content or programming is required, and such change conforms to the then existing industry standards, the system operator shall accept such programming for transmission over its video service network in the manner that is most economical to the system operator.

(2) The production and content of any programming aired on any channel provided for PEG use shall be solely the responsibility of the public, educational and governmental agencies receiving the benefit of such capacity. The system operator shall bear the responsibility for the transmission of such content only to the extent that such content complies with the requirements of subsection (1) (f) of this section.

(3) Governmental entities utilizing channels for PEG use shall make the programming available to all video service providers providing service within such governmental entity's jurisdiction in a nondiscriminatory manner. Each system operator shall be responsible for providing one (1) point of connectivity to the governmental entity's PEG channel distribution point within the jurisdiction to be served. The governmental entity providing programming for use on a channel designated for PEG use may request a change of the point of connectivity but shall pay the system operator for all costs associated with the change of the point of connectivity.

(4) No franchising entity may require a video service provider to provide any institutional network or equivalent capacity on its video service network.

(5) Where technically feasible, a system operator shall use reasonable efforts to interconnect its video network for the purposes of sharing PEG programming with other video service providers. Interconnection may be accomplished by direct cable, microwave link, satellite or other reasonable method of connection. System operators shall negotiate in good faith to provide interconnection of PEG channels. The video service provider requesting interconnection shall pay all costs for such interconnection.

(6) The operation of any PEG channel provided pursuant to this section and the production of any programming that appears on each such channel shall

be the sole responsibility of the governmental entity receiving the benefit of such channel, and the system operator shall bear only the responsibility for the transmission of the programming on each such channel to subscribers and the initial cost of connecting to existing and obligated PEG access channels.

50-3011. APPLICABILITY OF OTHER LAW. (1) The provisions of this chapter are intended to be construed to be consistent with the federal cable communications policy act of 1984, 47 U.S.C. sections 521 through 573.

(2) Except as otherwise stated herein, nothing in this chapter shall be interpreted to prevent an incumbent cable service provider, a nonincumbent video service provider, a system operator, a local unit of government or a franchising entity from entering into a negotiated franchise agreement with a political subdivision or seeking clarification of its rights and obligations under federal or state law or to exercise any right or authority under federal or state law.

(3) Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of titles 61 and 62, Idaho Code, regarding telecommunications service within the state of Idaho, nor to require a telephone corporation to obtain a certificate of franchise authority or local authorization pursuant to this chapter for the purpose of permitting or authorizing the telephone corporation to construct, upgrade, operate or maintain its telecommunications system to provide telecommunications service.

(4) No provision of this chapter shall diminish or otherwise limit the authority of this state, highway district or other local unit of government having jurisdiction over the public rights-of-way. Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of any applicable local ordinance or other regulation governing the use of the public rights-of-way.

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

Approved April 3, 2012.

CHAPTER 208
(H.B. No. 551)

AN ACT

RELATING TO THE CORONER; AMENDING SECTION 31-2802, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BURIAL OR CREMATION OF UNCLAIMED BODIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3412, IDAHO CODE, TO REVISE A SHORT TITLE; AMENDING SECTION 54-1143, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RIGHT TO RELY ON CERTAIN AUTHORIZATIONS; AND AMENDING SECTION 14-107, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO BURIAL ARRANGEMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-2802, Idaho Code, be, and the same is hereby amended to read as follows:

31-2802. BURIAL OR CREMATION OF UNCLAIMED BODIES. When no person takes charge of the body of the deceased within fourteen (14) days of death, the

coroner ~~must~~ shall cause the body to be decently interred or cremated; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial or cremation, the expenses are a legal charge against the county pursuant to the provisions of section 31-3412, Idaho Code.

SECTION 2. That Section 31-3412, Idaho Code, be, and the same is hereby amended to read as follows:

31-3412. INDIGENT BURIAL OR CREMATION. It shall be the duty of the board to provide for burial or cremation of any deceased indigent person. The amount paid by the obligated county shall not in any case exceed the established or negotiated rate set by each board. If the coroner, mortician or other responsible parties are unable to establish next of kin or other resources, they may make application to the board. Application must be made prior to services rendered and pursuant to terms of negotiated agreement. The county shall be free from any liability for said burial or cremation.

SECTION 3. That Section 54-1143, Idaho Code, be, and the same is hereby amended to read as follows:

54-1143. RIGHT TO RELY. (1) Any person signing a funeral service agreement or cremation authorization form or any other authorization for disposition, whether part of a prearranged funeral plan or at time of death, shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the deceased whose remains are sought to be buried or cremated and the signer's authority to order such disposition.

(2) A funeral establishment, cemetery or crematory establishment shall have the right to rely on such authorization and shall have authority to dispose of human remains upon the receipt of an authorization form signed by the decedent or by the person having the right to control disposition as set forth in section 54-1142, Idaho Code, or upon authorization by the county coroner pursuant to section 31-2802, Idaho Code. There shall be no liability of a funeral establishment, cemetery or crematory establishment that disposes of human remains pursuant to such authorization, or that releases or disposes of the remains pursuant to such authorization.

SECTION 4. That Section 14-107, Idaho Code, be, and the same is hereby amended to read as follows:

14-107. OFFICERS OFFICIALS TO NOTIFY ADMINISTRATOR OF DECEDENT'S PROPERTY. All public officials ~~must~~ shall, within forty-eight (48) hours of knowledge of a death, inform the public administrator of and make available to him all property known to them, belonging to a decedent who resided at the time of death in the county, which is liable to loss, injury or waste, or which, by reason thereof, ought to be in the possession of the public administrator. The public administrator shall be responsible for determining if any heirs or a will exists ~~and shall make burial arrangements~~ in all cases where there are no known personal representatives.

Approved April 3, 2012.

CHAPTER 209
(H.B. No. 553)

AN ACT

RELATING TO CIVIL OFFICES; AMENDING SECTION 59-901, IDAHO CODE, TO PROVIDE FOR VACANCIES IN ELECTIVE CIVIL OFFICES UPON THE OCCURRENCE OF CERTAIN SPECIFIED CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-901, Idaho Code, be, and the same is hereby amended to read as follows:

59-901. HOW VACANCIES OCCUR. (1) Every elective civil office shall be vacant upon the happening of ~~either~~ any of the following events at any time before the expiration of the term of such office, as follows:

~~1.~~ (a) The resignation of the incumbent.

~~2.~~ (b) ~~His~~ The death of the incumbent.

~~3.~~ (c) ~~His~~ Removal of the incumbent from office by lawful procedure.

~~4.~~ (d) The decision of a competent tribunal declaring his an elective office vacant due to apparent abandonment or prolonged incapacity or absence, or other basis as determined by the tribunal, provided such apparent abandonment, prolonged incapacity, absence or other basis is in excess of ninety (90) days.

~~5.~~ (e) ~~His~~ The incumbent ceasing to be a resident of the state, district or county in which the duties of his office are to be exercised, or for which he may have been elected.

~~6.~~ (f) A failure to elect someone at the proper election, there being no incumbent to continue in office until his a successor is elected and qualified, nor other lawful provisions ~~relating thereto~~ for filling an elective office.

~~7.~~ (g) A forfeiture of elective office as provided by any law of the state.

~~8.~~ (h) Conviction of an incumbent officeholder of any infamous crime felony, or of any public offense involving the violation of his oath of office.

~~9.~~ (i) The acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the state for a period of not less than sixty (60) days.

Approved April 3, 2012.

CHAPTER 210
(H.B. No. 564, As Amended, As Amended in the Senate)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1209, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INVESTIGATION BY THE PROFESSIONAL STANDARDS COMMISSION, TO PROVIDE FOR INVESTIGATIONS OF UNETHICAL CONDUCT, TO REVISE PROVISIONS RELATING TO AN ALLEGATION, TO REVISE PROVISIONS RELATING TO NOTIFICATION, TO REVISE PROVISIONS RELATING TO A HEARING PANEL'S SUBMISSION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN NOTIFICATION BY THE PROFESSIONAL STANDARDS COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-1210, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A SIGNED STATEMENT FROM APPLICANTS, TO

DEFINE CERTAIN TERMS, TO PROVIDE THAT A SCHOOL DISTRICT SHALL REQUEST CERTAIN INFORMATION FROM AN APPLICANT'S PAST PUBLIC SCHOOL EMPLOYERS, TO REVISE PROVISIONS RELATING TO A HIRING DISTRICT'S REQUEST, TO REMOVE LANGUAGE RELATING TO SCHOOL DISTRICTS' EMPLOYMENT OF APPLICANTS ON A CONDITIONAL BASIS, TO PROVIDE THAT SCHOOL DISTRICTS MAY EMPLOY APPLICANTS ON A NONCONTRACTED PROVISIONAL BASIS, TO PROVIDE FOR EXCEPTIONS, TO ELIMINATE A REFERENCE TO COLLECTIVE BARGAINING AGREEMENT AND INDIVIDUAL EMPLOYMENT CONTRACT, TO REVISE PROVISIONS RELATING TO THE EXPUNGEMENT OF CERTAIN INFORMATION FROM CERTAIN DOCUMENTS, TO REVISE A DATE, TO REVISE PROVISIONS RELATING TO RULES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1209, Idaho Code, be, and the same is hereby amended to read as follows:

33-1209. PROCEEDINGS TO REVOKE, SUSPEND, DENY OR PLACE REASONABLE CONDITIONS ON A CERTIFICATE -- LETTERS OF REPRIMAND -- COMPLAINT -- SUBPOENA POWER -- HEARING. (1) The professional standards commission may conduct investigations on any signed allegation of unethical præctice conduct of any teacher brought by:

- (a) An individual with a substantial interest in the matter, except a student in an Idaho public school; or
- (b) A local board of trustees.

The allegation shall state the specific ground or grounds for the allegation of unethical conduct that could lead to a possible revocation, suspension, placing reasonable conditions on the certificate, or issuance of a letter of reprimand. Upon receipt of a written and signed allegation of unethical misconduct, the chief certification officer, in conjunction with the attorney general and the professional standards commission investigator, shall conduct a review of the allegation using established guidelines to determine whether to remand the issue to the school district to be resolved locally or to open an investigation and forward the case to the professional standards commission. Within fourteen (14) days of the decision to forward the case, the chief certification officer shall notify the complainant and the teacher, in writing, that an investigation will be conducted and the teacher shall be afforded an opportunity to respond to the allegation verbally and in writing prior to the issuance of the complaint. The executive committee of the professional standards commission shall review the circumstances of the forwarded case at one (1) of the two (2) next regularly scheduled meetings, and determine whether probable cause exists to warrant the filing of a complaint and the requesting of a hearing.

(2) Proceedings to revoke or suspend any certificate issued under section 33-1201, Idaho Code, or to issue a letter of reprimand or place reasonable conditions on the certificate shall be commenced by a written complaint against the holder thereof. Such complaint shall be made by the chief certification officer stating the ground or grounds for issuing a letter of reprimand, placing reasonable conditions on the certificate, or for revocation or suspension and proposing that a letter of reprimand be issued, reasonable conditions be placed on the certificate, or the certificate be revoked or suspended. A copy of the complaint shall be served upon the certificate holder, either by personal service or by certified mail, within thirty (30) days of determination by the executive committee or such other time agreed to by the teacher and the chief certification officer.

(3) Not more than thirty (30) days after the date of service of any complaint, the person complained against may request, in writing, a hearing upon the complaint. Any such request shall be made and addressed to the state superintendent of public instruction; and if no request for hearing is made,

the grounds for suspension, revocation, placing reasonable conditions on the certificate, or issuing a letter of reprimand stated in the complaint shall be deemed admitted. Upon a request for hearing, the chief certification officer shall give notice, in writing, to the person requesting the hearing, which notice shall state the time and place of the hearing and which shall occur not more than ninety (90) days from the request for hearing or such other time agreed to by the teacher and the chief certification officer. The time of such hearing shall not be less than five (5) days from the date of notice thereof. Any such hearing shall be informal and shall conform with chapter 52, title 67, Idaho Code. The hearing will be held within the school district in which any teacher complained of shall teach, or at such other place deemed most convenient for all parties.

(4) Any such hearing shall be conducted by three (3) or more panel members appointed by the chairman of the professional standards commission, a majority of whom shall hold a position of employment the same as the person complained against. One (1) of the panel members shall serve as the panel chair. The panel chair shall be selected by the chairman of the professional standards commission from a list of former members of the professional standards commission who shall be instructed in conducting administrative hearings. No commission member who participated in the probable cause determination process in a given case shall serve on the hearing panel. All hearings shall be held with the object of ascertaining the truth. Any person complained against may appear in person and may be represented by legal counsel, and may produce, examine and cross-examine witnesses, and, if he chooses to do so, may submit for the consideration of the hearing panel a statement, in writing, in lieu of oral testimony, but any such statement shall be under oath and the affiant shall be subject to cross-examination.

(5) The state superintendent of public instruction, as authorized by the state board of education, has the power to issue subpoenas and compel the attendance of witnesses and compel the production of pertinent papers, books, documents, records, accounts and testimony. The state board or its authorized representative may, if a witness refuses to attend or testify or to produce any papers required by such subpoena, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that a due notice has been given of the time and place of attendance of the witnesses, or the production of the papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the board, or its representative, or has refused to answer questions propounded to him in the course of the proceedings, and ask for an order of the court compelling the witness to attend and testify and produce the papers before the board. The court, upon the petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced the papers before the board or its representative. A copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the board and regularly served, the court shall thereupon order that the witness appear before the board at the time and place fixed in the order and testify or produce the required papers. Upon failure to obey the order, the witness shall be dealt with for contempt of court. The subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

(6) Within twenty-one (21) days of the conclusion of any hearing dealing with the revocation, suspension, denial of a certificate, placing reasonable conditions on the certificate, or issuing a letter of reprimand, the hearing panel shall submit to the chief certification officer, and to the person complained against and to the chief administrative officer of the public school employing the certificate holder, if any, a concise statement

of the proceedings, a summary of the testimony, and any documentary evidence offered, together with the findings of fact and a decision. The hearing panel may determine to suspend or revoke the certificate, or the panel may order that reasonable conditions be placed on the certificate or a letter of reprimand be sent to the certificate holder, or if there are not sufficient grounds, the allegation against the certificate holder is dismissed and is so recorded.

(7) Within three (3) days of issuance, the hearing panel's decision shall be made a permanent part of the record of the certificate holder. Should the final decision be to place reasonable conditions upon the certificate holder or a suspension or revocation of the teaching certificate, the professional standards commission must notify the employing public school of the hearing panel's decision and to provide notice that such may negatively impact upon the employment status of the certificated employee.

(8) The final decision of the hearing panel shall be subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code, in the district court of the county in which the holder of a revoked certificate has been last employed as a teacher.

(9) Whenever any certificate has been revoked, suspended or has had reasonable conditions placed upon it, or an application has been denied, the professional standards commission may, upon a clear showing that the cause constituting grounds for the listed actions no longer exists, issue a valid certificate. Provided however, that no certificate shall be issued to any person who has been convicted of any crime listed in subsection 2. of section 33-1208, Idaho Code.

(10) For any person certified in another state and applying for certification in Idaho, and for any person previously certified in this state who is applying for certification in the event their certification has lapsed or is seeking renewal of a current certification, the chief certification officer shall deny an application for a new certificate or for a renewal of a certificate, regardless of the jurisdiction where such certificate was issued, if there are any unsatisfied conditions on such current or previously issued certificate or if there is any form of pending investigation by a state agency concerning the applicant's teaching license or certificate. Provided however, the chief certification officer shall not automatically deny the application if such person authorized in writing that the chief certification officer and the professional standards commission shall have full access to the investigative files concerning the conditions on, or investigation concerning, such certificate in Idaho or any other state or province. Upon review of the information authorized for release by the applicant, the chief certification officer shall either grant or deny such application or, upon denial and upon written request made by the applicant within thirty (30) days of such denial, shall afford the applicant with the procedures set forth in subsections (3) through (9) of this section. If the applicant does not execute the written authorization discussed herein, reapplication may be made once all investigations have been completed and all conditions have been satisfied, resulting in a clear certificate from the issuing state or province.

(11) For the purposes of this section, the term "teacher" shall include any individual required to hold a certificate pursuant to section 33-1201, Idaho Code.

SECTION 2. That Section 33-1210, Idaho Code, be, and the same is hereby amended to read as follows:

33-1210. INFORMATION ON PAST JOB PERFORMANCE. (1) As used in this section:

(a) "Applicant" means an applicant for employment in a certificated or noncertificated position who is currently or was previously employed by a school district.

(b) "Employer" means a school district employer.

(2) Before hiring an applicant, a school district shall request the applicant to sign a statement:

(a) Authorizing the applicant's current and past employers, including employers outside of the state of Idaho, to release to the hiring school district all information relating to the job performance and/or job related conduct, if any, of the applicant and making available to the hiring school district copies of all documents in the previous employer's personnel files established pursuant to sections 33-517 or 33-518, Idaho Code, or investigative or other files, regardless of whether or not the employee has received notice of the existence of such documentation due to a voluntary separation from employment or the employee's refusal to sign such documents, relating to the job performance by the applicant; and. Upon separation of employment, all documents from any other file, including an investigative file, shall be moved into the personnel file. The requirement to submit investigative files to the personnel file shall not be construed to be a waiver of the attorney client privilege. Names of any student, fellow employee or complainant, other than the employee's administrative supervisor or administrative author shall be redacted from investigative file documents prior to placement in the personnel file. The former employee shall be provided a copy of the documents and written notice of the inclusion of the information in the personnel file to the former employee's last known address. The former employee shall be permitted the opportunity to file a rebuttal to the new documents placed into the personnel file. If an ongoing personnel investigation was taking place, the contents of the district's investigative file shall be forwarded to the professional standards commission when the district submits the report required pursuant to section 33-1208A, Idaho Code.

(b) Documentation related to the job performance or job related conduct of any employee/applicant is defined as and may be limited by the producing district to include: all annual evaluations, letters of reprimand, letters of direction, letters of commendation or award, disciplinary actions and documentation of disciplinary investigations, recommendations for probation, notices of probation, notices of removal from probation, recommendations for termination or nonrenewal, notices of termination or nonrenewal, notices from the professional standards commission of Idaho or any other such similar state agency of action taken against an individual's certificate and any rebuttal documentation filed by the employee relative to any of the above documents. Names of any student or fellow employee complainant, other than the employee's administrative evaluator or administrative author of communication to the employee, shall be redacted from such provided documentation.

(c) Releasing the applicant's current and past employers, and employees acting on behalf of that employer, from any liability for providing information described in paragraph (a) of this subsection, as provided in subsection (4) of this section.

(3) Before hiring an applicant, a school district shall request in writing, electronic or otherwise, the applicant's current and past public school employers, including out-of-state employers, to provide the in-

formation described in subsection (2)(a) of this section, if any. The request shall include a copy of the statement signed by the applicant under subsection (2) of this section.

(4) Not later than twenty (20) business days after receiving a request under subsection (3) of this section, a school district within Idaho shall provide the information requested and make available to the requesting school district copies of all documents in the applicant's personnel record relating to job performance. The school district, or an employee acting on behalf of the school district, who in good faith discloses information under this section either in writing, printed material, electronic material or orally is immune from civil liability for the disclosure. An employer is presumed to be acting in good faith at the time of the disclosure under this section unless the evidence establishes one (1) or more of the following: (a) that the employer knew the information disclosed was false or misleading; (b) that the employer disclosed the information with reckless disregard for the truth; or (c) that the disclosure was specifically prohibited by a state or federal statute.

(5) A hiring district shall request from the office of the superintendent of public instruction verification of certification status, any past or pending violations of the professional code of ethics, any detail as to any prior or pending conditions placed upon a certificate holder's certificate, any prior or pending revocation, suspension or the existence of any prior letters of reprimand and information relating to job performance as established by the provisions of subsection (11) of this section, if any, for applicants for certificated employment.

(6) A school district shall not hire an applicant who does not sign the statement described in subsection (2) of this section.

(7) School districts may employ applicants on a conditional basis pending the district's review of information obtained under this section noncontracted provisional basis pursuant to the provisions of this section. Once the prior employer personnel performance materials have arrived for an individual provisionally hired, the district must review the documents within thirty (30) days of receipt. A standard certificated contract shall automatically be issued at the end of the thirty (30) day review period unless, prior to the expiration of the thirty (30) day period, the board articulates in writing the specific information received pursuant to subsection (2)(a) of this section, which justifies the decision not to issue a standard contract. The reason articulated in this decision must derive only from the documents received in the personnel file and cannot be based upon any event that has occurred during the status as a noncontracted provisional certified professional employee. Prior to issuing a standard certificated contract or prior to the decision not to issue a standard certificated contract, or upon the expiration of the thirty (30) day period, an individual employed as a noncontracted provisional certificated professional employee shall be provided with the same compensation and benefits as if the employee had been employed on a standard certificated contract. When requests are sent to out-of-state employers under subsection (3) of this section, an applicant who has signed the statement described in subsection (2) of this section shall not be prevented from gaining employment in Idaho public schools if the laws or policies of that other state prevent documents from being made available to Idaho school districts or if the out-of-state school district fails or refuses to cooperate with the request.

(a) If no documentation is going to be forthcoming from an out-of-state employer, the Idaho district may initially employ the applicant on a standard contract and not utilize the conditional basis employment.

(b) For new employees with no prior public school work experience or for applicants whose out-of-state former employers will not release documentation pursuant to this statute, the district board shall develop a policy to confirm prior work experience and check references.

(8) Information received pursuant to this section shall be used by a school district only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied. Except as otherwise provided by law, a board member or employee of a school district shall not disclose the information to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. A person who violates the provisions of this subsection may be civilly liable for damages caused by such violation.

(9) Beginning September 1, 2011, the board or an official of a school district shall not enter into ~~any collective bargaining agreement, individual employment contract, resignation agreement, severance agreement, or any other contract or agreement that has the effect of suppressing information about negative job performance by a present or former employee or of expunging information about that performance or unethical misconduct from any documents in the previous employer's personnel, investigative or other files relating to job performance by the applicant.~~ Any provision of a contract or agreement that is contrary to this subsection is void and unenforceable. This subsection does not restrict the expungement from a personnel file of information about alleged verbal or physical abuse or sexual misconduct that has not been substantiated.

(10) This section does not prevent a school district from requesting or requiring an applicant to provide information other than that described in this section.

(11) By September 1, 2012, the state board of education has the authority to and shall adopt rules defining job standards performance and "verbal abuse," "physical abuse," and "sexual misconduct" ~~as used in this section~~ and "unethical conduct" as defined in the code of ethics for Idaho professional educators for application to all certificated and noncertificated employees. The definitions of job standards performance, verbal and physical abuse and sexual misconduct adopted by the state board of education must include the requirement that the school district has made a determination that there is sufficient information to conclude that the abuse or unethical misconduct occurred and that the abuse or unethical misconduct resulted in the employee's leaving his or her position at the school district.

Approved April 3, 2012.

CHAPTER 211
(H.B. No. 572)

AN ACT

RELATING TO CONSOLIDATION OF ELECTIONS; AMENDING SECTION 22-2721, IDAHO CODE, TO REVISE PROCEDURES FOR ELECTION OF SUPERVISORS OF SOIL CONSERVATION DISTRICTS; AMENDING SECTION 34-217, IDAHO CODE, TO REVISE THE YEARS CERTAIN COUNTY RECORDS MUST BE RETAINED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-411, IDAHO CODE, TO REVISE REQUIREMENTS FOR APPLICATION OF AN ELECTOR'S REGISTRATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-411A, IDAHO CODE, TO REVISE PROCEDURES FOR CHANGING PARTY AFFILIATION IN PRIMARY ELECTIONS; AMENDING SECTION 34-704, IDAHO CODE, TO REVISE PROCEDURES REGARDING DECLARATION OF CANDIDACY; AMENDING SECTION 34-903, IDAHO CODE, TO PROVIDE THAT NO CANDIDATE'S NAME MAY APPEAR ON A BALLOT FOR MORE THAN ONE PARTISAN OFFICE; AMENDING SECTION 34-1206, IDAHO CODE, TO REVISE WHAT MUST BE INCLUDED IN THE BOARD OF COUNTY CANVASSER'S STATEMENT; AMENDING SECTION 34-1702, IDAHO CODE, TO REVISE INFORMATION ON CERTAIN RECALL PETITIONS; AMENDING SECTION 34-1707, IDAHO CODE, TO REVISE PROCEDURES REGARDING THE SUFFICIENCY OF A RECALL PETITION; AMENDING

SECTION 34-2305, IDAHO CODE, TO REVISE BALLOT RECOUNT PROCEDURES; AMENDING SECTION 34-2307, IDAHO CODE, TO PROVIDE THAT THE COUNTY PROSECUTING ATTORNEY FOR DISTRICT OFFICES SHALL REQUIRE A RECOUNT BE MADE WHEN CERTAIN CIRCUMSTANCES OCCUR; AMENDING SECTION 34-2412, IDAHO CODE, TO REMOVE LANGUAGE REGARDING COMPOSITION OF PRECINCT ELECTION BOARDS; AMENDING SECTION 34-2413, IDAHO CODE, TO REVISE PROCEDURES FOR PREPARATION OF VOTING MACHINES FOR USE; AMENDING SECTION 34-2424, IDAHO CODE, TO REVISE PROCEDURES WHEN PAPER BALLOTS ARE USED IN CONJUNCTION WITH VOTING MACHINES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-2721, Idaho Code, be, and the same is hereby amended to read as follows:

22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. (1) The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this chapter. Elections shall be conducted pursuant to the provisions of this section and the uniform district election law, chapter 14, title 34, Idaho Code. If at any time the supervisors of a district deem it necessary, they may request permission from the state soil and water conservation commission to increase the number of supervisors to seven (7). Upon receipt of such a request in writing, signed by all five (5) supervisors, stating a valid reason for such need, the commission shall grant permission. The additional supervisors shall then be appointed as outlined in this section until such time as regular district elections for two (2) supervisors in each district. At that time those districts having seven (7) supervisors shall then elect four (4) supervisors for four (4) year terms. The two (2) supervisors appointed by the ~~commission~~ district shall be persons who are by training and experience qualified to perform the specialized services which will be required of them in the performance of their duties. All supervisors shall be landowners or farmers of the district where they are elected or appointed and shall be registered to vote in the state of Idaho.

(2) Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil and water conservation commission to nominate candidates for supervisors of each district. The county clerk shall conduct the election for the district in compliance with chapter 14, title 34, Idaho Code, and shall be the election official for the district. The election official shall have authority to extend the time within which nominating petitions may be filed. Nominating petitions shall be filed with the secretary of the district, and ~~n~~No such nominating petition shall be accepted by the election official unless it shall be subscribed by not less than five (5) persons who are qualified electors owning land or residing within the boundaries of the district. The election official shall give due notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated shall appear upon ballots, with directions to choose three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. ~~The commission shall pay all the expenses of such election, which shall be supervised and conducted by the election official.~~

(3) All elections in districts shall be conducted by the county clerk. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be in

compliance with the provisions of chapter 14, title 34, Idaho Code, and shall be supervised and conducted by the county clerk. The cost of conducting such elections shall be borne by the county that conducted the election. The county clerk shall certify to the state soil and water conservation ~~commission~~ district the names of the elected supervisors. The state soil and water conservation ~~commission~~ district shall issue certificates of election to each elected supervisor so certified. The county clerk or county clerks of the county or counties in which the district is located shall conduct the election for the soil conservation district, and the county clerk must provide a ballot for the district election and must provide a process that allows only qualified electors of the district to vote in that district's election.

(4) In any election for supervisor, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of supervisors to be elected, it shall not be necessary for the candidates to stand for election, and the board of supervisors shall declare such candidates elected as supervisors, and the state soil and water conservation ~~commission~~ district shall immediately make and deliver to such persons certificates of election.

(5) The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the first day of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil and water conservation commission. ~~which~~ The soil conservation district shall issue a certificate of such appointment.

(6) A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

(7) In the event the district has a special project, approved by the state soil and water conservation commission, making project funds available from federal or other sources, a supervisor may receive compensation not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary expenses from project funds for services directly related to the project.

(8) The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one (1) or more supervisors, or to one (1) or more agents, or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil and water conservation commission, upon request, copies of such ordinances, rules, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning the supervisors' activities as the commission may require in the performance of the commission's duties under this chapter.

(9) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property;

they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for independent financial audits in accordance with the provisions of section 67-450B, Idaho Code. Supervisors shall be subject to recall in accordance with the provisions of chapter 17, title 34, Idaho Code.

(10) The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

SECTION 2. That Section 34-217, Idaho Code, be, and the same is hereby amended to read as follows:

34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

- (a) Voter registration cards for electors whose registration has been terminated.
- (b) Combination election record and poll book.
- (c) Declaration of candidacy.
- (d) Maps of precinct boundaries with legal descriptions.
- (e) List of absentee voters.

(2) The following shall be retained for two (2) years:

- (a) Correspondence relating to an elector's voter registration.
- (b) Completed absentee ballot request forms.
- (c) Tally books.
- (d) Voted ballots.
- (e) Any ballots that were required to be duplicated before being counted.

(3) The following shall be maintained for one (1) year:

- (a) ~~Tally books.~~
- ~~(b) Absentee ballot affidavit envelopes.~~
- (~~e~~b) Notice of election.
- (~~d~~c) Personal identification affidavit.
- ~~(e) Voted ballots.~~
- (~~f~~d) Unvoted ballots from the primary election.
- (~~g~~e) Ballot tracking logs.
- ~~(h) Any ballots that were required to be duplicated before being counted.~~
- (~~i~~f) Automated tabulation election logs.
- (~~j~~g) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device.
- (~~k~~h) Record of the number of ballots printed and furnished to each polling place.

(4) Other election supplies including, but not limited to, unused ballots, official election stamps, and spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

SECTION 3. That Section 34-411, Idaho Code, be, and the same is hereby amended to read as follows:

34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector who requests registration shall supply the following information under oath or affirmation:

- (a) Full name and sex.
- (b) Mailing address, residence address or any other necessary information definitely locating the elector's residence.
- (c) The period of time preceding the date of registration during which the elector has resided in the state.
- (d) Whether or not the elector is a citizen.
- (e) That the elector is under no legal disqualifications to vote.
- (f) The county and state where the elector was previously registered, if any.
- (g) Date of birth.
- (h) Current driver's license number or identification card issued by the Idaho transportation department. ~~;~~ In the absence of an Idaho driver's license or state issued identification card, the last four (4) digits of the elector's social security number.

(2) As provided for in section 34-404, Idaho Code, each elector shall select an affiliation with a political party qualified to participate in elections pursuant to section 34-501, Idaho Code, or select to be designated as "unaffiliated." The selection of party affiliation or designation as "unaffiliated" shall be maintained within the voter registration system as provided for in section 34-437A, Idaho Code. If an elector shall fail or refuse to make such a selection, the county clerk shall record as "unaffiliated" such elector within the voter registration system as provided for in section 34-437A, Idaho Code.

(3) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(4) Each elector who requests registration may, at the elector's option, supply the elector's telephone number. If the telephone number is supplied by the elector, the telephone number shall be available to the public.

SECTION 4. That Section 34-411A, Idaho Code, be, and the same is hereby amended to read as follows:

34-411A. PRIMARY ELECTIONS -- CHANGING PARTY AFFILIATION -- UNAFFILIATED ELECTORS. (1) For a primary election, an elector may change such elector's political party affiliation or become "unaffiliated" by filing a signed form with the county clerk no later than the last day a candidate may file for partisan political office prior to such primary election, as provided for in section 34-704, Idaho Code. An "unaffiliated" elector may affiliate with the party of the elector's choice by filing a signed form up to and including election day. The application form described in section 34-1002, Idaho Code, shall also be used for this purpose.

(2) For a primary election, an "unaffiliated" elector may select a political party affiliation only prior to voting in the primary election. An elector may make such selection on or before election day, by declaring such political party affiliation to the poll worker or other appropriate election personnel. The poll worker or other appropriate election personnel shall then record in the poll book the elector's choice. After the primary election, the county clerk shall record the party affiliation so recorded in the poll book as part of such elector's record within the voter registration system as provided for in section 34-437A, Idaho Code.

SECTION 5. That Section 34-704, Idaho Code, be, and the same is hereby amended to read as follows:

34-704. DECLARATION OF CANDIDACY. Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8 a.m., on the twelfth Monday preceding the primary election and 5 p.m., on the tenth Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy, ~~except candidates for nonpartisan office and shall be affiliated with a party at the time of filing.~~ A candidate shall be deemed affiliated with the political party if the candidate submits a party affiliation form along with the declaration of candidacy to the filing official. The filing official shall reject any declaration of candidacy for partisan office in a primary election from candidates who are not affiliated with a political party. Candidates for nonpartisan office shall file during the period provided for in this section.

Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, Idaho Code.

SECTION 6. That Section 34-903, Idaho Code, be, and the same is hereby amended to read as follows:

34-903. SECRETARY OF STATE TO PRESCRIBE FORM AND CONTENTS OF ALL BALLOTS AND RELATED DOCUMENTS. (1) The secretary of state shall, in a manner consistent with the election laws of this state, prescribe the form for all ballots, absentee ballots, diagrams, sample ballots, ballot labels, voting machine labels or booklets, certificates, notices, declarations of candidacy, affidavits of all types, lists, applications, poll books, tally sheets, registers, rosters, statements and abstracts if required by the election laws of this state.

(2) The secretary of state shall prescribe the arrangement of the matter to be printed on each kind of ballot and label, including:

(a) The placement and listing of all offices, candidates and issues upon which voting is statewide, which shall be uniform throughout the state.

(b) The listing of all other candidates required to file with him, and the order of listing all offices and issues upon which voting is not statewide.

(3) The names of candidates for legislative or special district offices shall be printed only on the ballots and ballot labels furnished to voters of such district.

(4) The names of candidates which appear on election ballots for federal, state, county and city offices shall be rotated in the manner determined by the secretary of state. The order of candidates for office in other elections shall be determined by applying the first letter of each candidate's last name to a random alphabet selected prior to each election by the secretary of state.

(5) No candidate's name may appear on a ballot for more than one (1) partisan office, except that a candidate for precinct committeeman may seek one (1) additional office upon the same ballot. The provisions of this subsection shall not apply to the election of electors of president and vice-president of the United States.

SECTION 7. That Section 34-1206, Idaho Code, be, and the same is hereby amended to read as follows:

34-1206. BOARD'S STATEMENT OF VOTES CAST. The board shall examine and make a statement of the total number of votes cast for all candidates or special questions that shall have been voted upon at the election. The statement shall set forth the special questions and the names of the candidates for whom the votes have been cast. It shall also include the total number of votes cast for each candidate for office by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code, and the total number of affirmative and negative votes cast for any special question by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the county clerk.

SECTION 8. That Section 34-1702, Idaho Code, be, and the same is hereby amended to read as follows:

34-1702. REQUIRED SIGNATURES ON PETITION. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1) (a) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1) (b) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2) (a) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the district or school trustee zone equal in number to fifty percent (50%) of the number of electors who cast votes in the last election of the district or school trustee zone. If no district election has been held in the last six (6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school trustee zone at the time the petition is filed.

SECTION 9. That Section 34-1707, Idaho Code, be, and the same is hereby amended to read as follows:

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION. (1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, Idaho Code. If the officer being recalled is one (1) specified in section 34-1701(1) (a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1) (b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted countywide.

(3) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, and the governing board and election officials of the special district that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the ~~special district~~ county clerk in the manner provided in section 34-1401, Idaho Code, ~~and the special district may contract with the county clerk as provided in section 34-1401, Idaho Code.~~

(4) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted by the county clerk in the manner provided in section 34-1401, Idaho Code, and shall be conducted citywide.

(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

SECTION 10. That Section 34-2305, Idaho Code, be, and the same is hereby amended to read as follows:

34-2305. MANNER OF RECOUNTING. At the time and place fixed for recounting the ballots cast in any precinct all ballots shall be recounted in plain view of the candidates or their representatives, ~~and if the recount is of a primary election the blank ballots shall be counted against the ballots that were voted.~~ The recount shall commence at the time and place so ordered, and shall continue until the recount is finished and the results tabulated. The attorney general shall be the final authority concerning any question which arises during the recount for federal, state, county or municipal elections. The county prosecuting attorney shall be the final authority concerning any question that arises during the recount of other elections.

SECTION 11. That Section 34-2307, Idaho Code, be, and the same is hereby amended to read as follows:

34-2307. WHEN GENERAL RECOUNT ORDERED. If the candidate or person who requested the recount is relieved of the costs of the recount as described in section 34-2306, Idaho Code, the attorney general, or the county prosecuting attorney for district offices, shall require a recount to be made in all the remaining precincts of the office in question. The state shall pay for a general recount of a federal, state, or legislative district office, while the county shall pay for a general recount of a county, city or district office.

SECTION 12. That Section 34-2412, Idaho Code, be, and the same is hereby amended to read as follows:

34-2412. COMPOSITION OF PRECINCT ELECTION BOARDS. (1) The election board of each election precinct in which a voting machine or vote tally system is used shall consist of an election judge and one (1) or more clerks. Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts at least sixty (60) days prior to the primary election. The county clerk shall establish the number of election board clerks.

(2) The qualifications and duties of election judges shall apply to the appointment of election board clerks in counties or precincts where voting machines or vote tally systems are used.

~~(3) The board of county commissioners or the governing body of a city, district or other political subdivision, not later than forty (40) days before an election, may create, unite, combine or divide one or more election precincts for the purpose of using one or more voting machines or vote tally systems therein at the election. The number of registered voters to be in-~~

~~cluded in each of the election precincts shall be determined by such board of county commissioners or governing body of a city, district or other political subdivision.~~

SECTION 13. That Section 34-2413, Idaho Code, be, and the same is hereby amended to read as follows:

34-2413. PREPARATION OF MACHINES FOR USE -- INSTRUCTIONS. (1) Before each election at which voting machines or vote tally systems are to be used, the county clerk of a county, ~~or the clerk of a city, district or other political subdivision,~~ in which voting machines or vote tally systems are to be used, shall cause them to be properly prepared and shall cause the election board to be properly instructed in their use.

(2) For the purpose of giving such instruction, the county clerk shall call the meeting or meetings of the election board that are necessary. Each election board shall attend the meetings and receive the instruction necessary for the proper conduct of the election with the machine or vote tally system.

(3) No election board judge or clerk shall serve in any election at which a voting machine or vote tally system is used unless he has received the required instruction and is fully qualified to perform the duties in connection with the machine or vote tally system; but this requirement shall not prevent the appointment of an election board clerk to fill a vacancy in an emergency.

SECTION 14. That Section 34-2424, Idaho Code, be, and the same is hereby amended to read as follows:

34-2424. PAPER BALLOTS USED IN CONJUNCTION WITH VOTING MACHINES. In any election where voting machines or vote tally systems are used:

(1) Paper ballots may be used to record the electors' votes for party offices.

(2) Paper ballots may be used to record the electors' votes for or against municipal candidates or measures.

(3) Paper ballots which are used in conjunction with voting machines may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code.

(4) Ballots or ballot cards may be returned to the office of the county clerk for counting.

(5) In the event that paper ballots are used in conjunction with voting machines or vote tally systems to record write-in votes, these paper ballots may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code.

SECTION 15. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 2012.

CHAPTER 212
(H.B. No. 576)

AN ACT

RELATING TO LEVY ELECTIONS; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-439A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DISCLOSURES IN ELECTIONS IN A TAXING DISTRICT THAT PROPOSES TO SUBMIT A QUESTION TO ELECTORS THAT WOULD AUTHORIZE A LEVY.

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

SECTION 1. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-439A, Idaho Code, and to read as follows:

34-439A. DISCLOSURES IN ELECTIONS TO AUTHORIZE LEVY. (1) Notwithstanding any other provision of law except for the provisions of section 63-802(1)(g), Idaho Code, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy shall provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

(a) The purpose for which the levy shall be used; the date of the election; and, except for the provisions found in sections 63-802(1)(g) and 33-802(1) and (4), Idaho Code, the dollar amount estimated to be collected each year from the levy; and

(b) The length of time, reflected in months or years, in which the proposed levy will be assessed.

(2) The official statement shall be made a part of the ballot and shall be included in the official notice of the election.

Approved April 3, 2012.

CHAPTER 213
(H.B. No. 577)

AN ACT

RELATING TO IDAHO LAW ENFORCEMENT, FIREFIGHTING AND EMS MEDAL OF HONOR; AMENDING SECTION 67-8803, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WHEN CERTAIN MEDALS ARE AWARDED.

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

SECTION 1. That Section 67-8803, Idaho Code, be, and the same is hereby amended to read as follows:

67-8803. WHEN AND BY WHOM AWARDED. The Idaho law enforcement, firefighting and EMS medal of honor shall be awarded by the governor to the law enforcement recipients during the national law enforcement recognition week and to the firefighter and EMS recipients during the annual Idaho fallen firefighter memorial ceremony. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general.

Approved April 3, 2012.

CHAPTER 214
(H.B. No. 584, As Amended)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE FOR CONTINUATION OF THE HOMESTEAD EXEMPTION FOR A TIME CERTAIN UPON THE OWNER'S, BENEFICIARY'S, PARTNER'S, MEMBER'S OR SHAREHOLDER'S DEATH IF CERTAIN CIRCUMSTANCES OCCUR; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should have been allowed and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

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

otherwise subject to public disclosure pursuant to chapter 3, title 9, Idaho Code.

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

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

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

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

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

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

(i) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

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

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

(7) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code, or because the homestead has been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal

Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined in section 112 of the Internal Revenue Code, and such homestead would have otherwise qualified under this section, then the board of county commissioners of the county in which the homestead is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

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

SECTION 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, 2012.

Approved April 3, 2012.

CHAPTER 215
(H.B. No. 591)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-113, IDAHO CODE, TO REVISE PROVISIONS RELATING TO UNCLAIMED MONEYS AND ABANDONED PROPERTY; AMENDING SECTION 14-522, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 14-523, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISPOSITION OF MONEYS RECEIVED UNDER THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 15-3-914, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISPOSITION OF UNCLAIMED ASSETS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 66-503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DUTIES OF THE SUPERINTENDENT AND MANAGER AND TO MAKE A TECHNICAL CORRECTION.

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

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

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

state of Idaho upon expiration of the period for redemption of the property pursuant to section 14-523, Idaho Code.

SECTION 2. That Section 14-522, Idaho Code, be, and the same is hereby amended to read as follows:

14-522. PUBLIC SALE OF ABANDONED PROPERTY. (1) The administrator may, within three (3) years after the receipt of abandoned property, sell it to the highest bidder at public sale in whatever city affords, in the judgment of the administrator, the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator, the bid is insufficient. If in the judgment of the administrator, the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

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

(3) A person making a claim under this chapter is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to section 14-523(34), Idaho Code, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

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

SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby amended to read as follows:

14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) Moneys in the unclaimed property account are subject to redemption by the owner as follows:

(a) All moneys designated by law for escheatment to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho may be redeemed by the owner, upon satisfaction of the requirements for redemption established in rule by the administrator, if claimed within a period of ten (10) years from the date the property is subject to the custody of the state under this chapter. Upon the conclusion of such redemption period, unredeemed moneys shall escheat to the public school permanent endowment fund.

(b) Moneys submitted from unnamed owners may be designated as unredeemable after a period of ten (10) years upon satisfaction of the requirements for designation as unredeemable established in rule by the administrator.

(c) All other moneys in the unclaimed property account may be redeemed by the owner upon satisfaction of the requirements for redemption established in rule by the administrator.

~~(3) An amount equal to the funds received from unclaimed shares and dividends of any corporation incorporated under the laws of the state of Idaho shall be transferred from the unclaimed property account to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho. In the event that any funds are required to refund any funds deposited in the public school permanent endowment fund under this section or under section 14-113 or 15-3-914, Idaho Code, the state treasurer shall offset the amount of such refund against future transfers to the public school permanent endowment fund. In the event that in one (1) fiscal year there are insufficient amounts to effect the offset, the balance shall be recaptured from the public school earnings reserve fund established under section 33-902A, Idaho Code Moneys in the unclaimed property account shall be distributed as follows:~~

~~(a) All moneys designated by law for distribution to the public school permanent endowment fund shall be transferred from the unclaimed property account to the public school permanent endowment fund upon the expiration of the period provided in this section for the owner to redeem such moneys.~~

~~(b) The state treasurer shall transfer all moneys designated as unredeemable to the general fund at the end of each fiscal year.~~

~~(34) All other money in the unclaimed property account is hereby continuously appropriated to the state treasurer, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:~~

~~(a) For payment of claims allowed by the state treasurer under the provisions of this chapter.~~

~~(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.~~

~~(c) For payment of the cost of appraisals incurred by the state treasurer covering property held in the name of the account.~~

~~(d) For payment of the cost incurred by the state treasurer for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state treasurer, or which arose from complying with this chapter with respect to such property or funds.~~

~~(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.~~

~~(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.~~

~~(g) For transfer to the general fund as provided in subsection (43) of this section.~~

~~(h) For transfer to the public school permanent endowment fund as provided in subsection (3) of this section.~~

~~(45) At the end of each month fiscal year, or more often, if he or she deems it advisable, the state treasurer shall transfer all money in the unclaimed property account in excess of two hundred fifty thousand dollars (\$250,000) to the general fund. Within sixty (60) days of making this transfer or of receiving a report of unclaimed property, whichever is earlier, he or she the administrator shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to identified as the apparent owner of the unclaimed property in the unclaimed property account or transferred to the general fund. The record shall be available for public inspection at all reasonable business hours review on the state treasurer's website.~~

~~(5) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the general fund shall be retained by the state of Idaho for the purposes of this~~

~~section and administered pursuant to this section for a period of ten (10) years. At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim under this section and section 14-524, Idaho Code, shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.~~

SECTION 4. That Section 15-3-914, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-914. DISPOSITION OF UNCLAIMED ASSETS. If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to his trustee if one has been appointed, or, if no trustee has been appointed, shall file the report of abandoned property required by section 14-517, Idaho Code, and ~~proceed to dispose of~~ deliver the property in the manner set forth in the "unclaimed property act," provided, however, that in the event no person appears to claim such property within one thousand eight hundred twenty-seven (1,827) days, approximately five (5) years, from the date of the appointment of the personal representative, the moneys or property so deposited shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of section 14-519, Idaho Code.

SECTION 5. That Section 66-503, Idaho Code, be, and the same is hereby amended to read as follows:

66-503. CUSTODY OF MONEY -- DUTY OF SUPERINTENDENT OR MANAGER. All moneys so held in trust shall be kept by the superintendent or manager, subject to be returned to the person or persons from whom any part of such fund has been taken for deposit in trust, except any portion thereof applied to such patient's expenses while in said state hospital or the southwest Idaho treatment center or applied to the payment of the funeral expenses of said patient, upon his death, release or discharge from the said institution; provided, however, that if any patient who dies or has been discharged or escaped from any state hospital or the southwest Idaho treatment center does not present, personally or through his legal guardian, heirs or assigns, a claim against the said trust fund for repayment to him of money to his credit in said trust fund for patients within five (5) years from the date of his death, discharge or escape as certified to the state controller of the state of Idaho by the officer in charge of said institutions, said then the superintendent or manager shall pay over the money shall escheat to the state of Idaho and shall be transferred to the general fund thereof by the state controller and the superintendent in the manner set forth in section 14-519, Idaho Code, provided however, that money held in trust for a deceased patient shall be transferred pursuant to section 14-113, Idaho Code.

Approved April 3, 2012.

CHAPTER 216
(H.B. No. 599)

AN ACT

RELATING TO THE IDAHO STATE HISTORICAL SOCIETY; AMENDING SECTION 67-4126, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF THE BOARD AND TO CLARIFY THAT CERTAIN RECORDS ARE NOT EXEMPT FROM THE PUBLIC RECORDS ACT; AMENDING CHAPTER 41, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4129C, IDAHO CODE, TO ESTABLISH THE RECORDS MANAGEMENT SERVICES FUND; AMENDING CHAPTER 41, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4131, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO RECORDS MANAGEMENT SERVICES AND RULES, GUIDELINES AND PROCEDURES; REPEALING SECTION 67-5751, IDAHO CODE, RELATING TO RECORDS MANAGEMENT; REPEALING SECTION 67-5751A, IDAHO CODE, RELATING TO HISTORICAL RECORDS; REPEALING SECTION 67-5752, IDAHO CODE, RELATING TO A RECORDS MANAGEMENT MANUAL; AND REPEALING SECTION 67-5753, IDAHO CODE, RELATING TO MICROFILMING SERVICES.

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

SECTION 1. That Section 67-4126, Idaho Code, be, and the same is hereby amended to read as follows:

67-4126. POWERS AND DUTIES OF BOARD. The board of trustees of the society shall have powers and duties as follows:

1. To appoint a director of the society as provided herein and advise him in the performance of his duties and formulate general policies affecting the society.

2. To encourage and promote interest in the history of Idaho and encourage membership in the society.

3. To collect for preservation and display artifacts and information illustrative of Idaho history, culture and society.

4. To print such publications and reports as may be deemed necessary.

5. To encourage creation of county historical societies and museums in the counties of Idaho.

6. To facilitate the use of Idaho records for official reference and historical research.

7. To be responsible for records management services for state government. Records management services include the management, storage and retrieval of all state created records under retention. State created records shall mean any document, book, paper photograph, sound recording or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of official state business. The board may charge reasonable amounts for records management services. The records managed pursuant to this subsection will not be subject to the exemption in public records law provided in section 9-337(15), Idaho Code.

8. To accept from any state, county, or city, or any public official, any official books, records, documents, original papers, newspaper files, printed books, or portraits, not in current use. When such documents are so accepted, copies therefrom shall be made and certified under the seal of the society upon application of any person, which person shall pay for such copies reasonable fees established by the society.

89. To require that any state, county, or city, or any public official, deposit official books, records, documents, or original papers, not in current use, which are of definite historical importance, in the society for preservation and to provide methods whereby such materials, which have no significance, may be destroyed.

910. To establish such rules as may be necessary to discharge the duties of the society.

101. To employ such personnel as may be necessary for the administration of its duties in accordance with the rules of the administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code.

112. To have and use an official seal.

123. To delegate and provide subdelegation of any such authority.

134. To identify historic, architectural, archaeological, and cultural sites, buildings, or districts, and to coordinate activities of local historic preservation commissions.

145. To serve as the geographic names board of the state of Idaho.

SECTION 2. That Chapter 41, 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 67-4129C, Idaho Code, and to read as follows:

67-4129C. RECORDS MANAGEMENT SERVICES FUND. There is hereby created in the state treasury the "records management services fund." Moneys in the fund shall consist of funds received from state and local governmental agencies for records management services. The Idaho state historical society shall have the authority to charge and receive payment from such agencies in accordance with rules promulgated or procedures or guidelines established by the agency. Moneys received pursuant to this section are for the operations of maintaining, storing and retrieving governmental records. The legislature shall appropriate all moneys in the records management services fund.

SECTION 3. That Chapter 41, 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 67-4131, Idaho Code, and to read as follows:

67-4131. RECORDS MANAGEMENT SERVICES -- RULES, GUIDELINES, PROCEDURES. (1) The Idaho state historical society may develop, subject to the provisions of chapter 52, title 67, Idaho Code, rules and procedures pertaining to records management services. Rules, or if rules are not adopted, guidelines and procedures shall be established:

(a) Pertaining to retention periods for all state created records;

(b) Prescribing conditions and procedures for destruction of state created records;

(c) Ensuring efficient utilization of manpower, building space and supplies with regard to paper flow and forms usage;

(d) Pertaining to proper and efficient utilization of microfilming and imaging services; and

(e) Pertaining to protocols for an electronic records management program.

(2) The Idaho state historical society shall develop and shall provide to all state agencies a records management manual containing all the rules and procedures developed for records management. Such manual may be provided to state agencies in an electronic format.

SECTION 4. That Section 67-5751, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 67-5751A, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 67-5752, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 67-5753, Idaho Code, be, and the same is hereby repealed.

Approved April 3, 2012.

CHAPTER 217
(H.B. No. 607)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE THAT DO NOT MEET THE DEFINITION OF "EMPLOYEE"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country other than the United States, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and non-medical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer;

(b) Elected officials or appointed officials of an employer who receive a salary;

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days; or

(d) A person receiving differential wage payments as defined in 26 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person not under contract with a school district or charter school, who on a day to day basis works as a substitute teacher replacing a contracted teacher and is paid a substitute wage as established by district policy or who, on a day to day basis works as a substitute assistant replacing a staff instruction assistant or a staff library

assistant and is paid a substitute wage as established by district policy; or

(h) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, county, ~~or~~ irrigation district, cemetery district or mosquito abatement district when the city, county, ~~or~~ irrigation district, cemetery district or mosquito abatement district has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and ~~the growing season~~, including parks, golf course positions and irrigation positions; or

(i) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code,

which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee as a result of his death while in active duty service, the member shall be entitled to military service through the date of death. Provided further, if a member fails to again become an employee due to a disability retirement resulting from service in the armed forces of the United States, the member shall be entitled to military service through the date the disability allowance becomes payable. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a) (17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a) (17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(c) Differential wage payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14) (A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

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

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. 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 3, 2012.

CHAPTER 218
(H.B. No. 608)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-201, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM WATER RIGHTS REQUIREMENTS FOR CERTAIN MUNICIPALITIES, MUNICIPAL PROVIDERS, SEWER DISTRICTS AND REGIONAL PUBLIC ENTITIES OPERATING PUBLICLY OWNED TREATMENT WORKS, TO REQUIRE MUNICIPAL PROVIDERS AND SEWER DISTRICTS TO PROVIDE NOTICE TO THE DEPARTMENT OF WATER RESOURCES IF CERTAIN LAND APPLICATION IS TO TAKE PLACE, TO PROVIDE THAT NOTICE SHALL BE ON FORMS FURNISHED BY THE DEPARTMENT AND TO PROVIDE FOR INCLUSION OF ALL REQUIRED INFORMATION; AND AMENDING SECTION 42-221, IDAHO CODE, TO PROVIDE A FEE FOR FILING NOTICE OF LAND APPLICATION OF EFFLUENT.

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

SECTION 1. That Section 42-201, Idaho Code, be, and the same is hereby amended to read as follows:

42-201. WATER RIGHTS ACQUIRED UNDER CHAPTER -- ILLEGAL DIVERSION AND APPLICATION OF WATER -- USES FOR WHICH WATER RIGHT NOT REQUIRED -- EXCLUSIVE AUTHORITY OF DEPARTMENT. (1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.

(2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

(3) Notwithstanding the provisions of subsection (2) of this section, water may be diverted from a natural watercourse and used at any time, with or without a water right:

(a) To extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire;

(b) For forest practices as defined in section 38-1303(1), Idaho Code, and forest dust abatement. Such forest practices and forest dust abatement use is limited to two-tenths (0.2) acre-feet per day from a single watercourse.

(4) For purposes of subsection (3) (b) of this section, no person shall divert water from a canal or other irrigation facility while the water is lawfully diverted, captured, conveyed, used or otherwise physically controlled by the appropriator.

(5) If water is to be diverted from a natural watercourse within a water district, or from a natural watercourse from which an irrigation delivery entity diverts water, a person diverting water pursuant to subsection (3) (b) of this section shall give notice to the watermaster of the intent to divert water for the purposes set forth in said subsection. In the event that the water to be diverted pursuant to subsection (3) (b) of this section is not within a water district, but an irrigation delivery entity diverts wa-

ter from the same natural watercourse, the required notices shall be given to said irrigation delivery entity. For uses authorized in subsection (3) (a) of this section, notice shall not be required but may be provided when it is reasonable to do so.

(6) A water right holder, who determines that a use set forth in subsection (3) of this section is causing a water right to which the holder is entitled to be deprived of water to which it may be otherwise entitled, may petition the director of the department of water resources to order cessation of or modification of the use to prevent injury to a water right. Upon such a petition, the director shall cause an investigation to be made and may hold hearings or gather information in some other manner. In the event that the director finds that an injury is occurring to a water right, he may require the use to cease or be modified to ensure that no injury to other water rights occurs. A water right holder feeling aggrieved by a decision or action of the director shall be entitled to contest the action of the director pursuant to section 42-1701A(3), Idaho Code.

(7) This title delegates to the department of water resources exclusive authority over the appropriation of the public surface and ground waters of the state. No other agency, department, county, city, municipal corporation or other instrumentality or political subdivision of the state shall enact any rule or ordinance or take any other action to prohibit, restrict or regulate the appropriation of the public surface or ground waters of the state, and any such action shall be null and void.

(8) Notwithstanding the provisions of subsection (2) of this section, a municipality or municipal provider as defined in section 42-202B, Idaho Code, a sewer district as defined in section 42-3202, Idaho Code, or a regional public entity operating a publicly owned treatment works shall not be required to obtain a water right for the collection, treatment, storage or disposal of effluent from a publicly owned treatment works or other system for the collection of sewage or stormwater where such collection, treatment, storage or disposal, including land application, is employed in response to state or federal regulatory requirements. If land application is to take place on lands not identified as a place of use for an existing irrigation water right, the municipal provider or sewer district shall provide the department of water resources with notice describing the location of the land application, or any change therein, prior to land application taking place. The notice shall be upon forms furnished by the department of water resources and shall provide all required information.

SECTION 2. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations, research, and providing public data as required of the department in the performance of its statutory duties:

- A. For filing an application for a permit to appropriate the public waters of this state:
 1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$100
 2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$250
 3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$250 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$1,010 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.
5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$2,610 plus \$10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.
6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet \$6,610 plus \$2.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.
- B. For filing an application for an extension of time within which to resume the use of water under a vested water right \$100
- C. For filing application for amendment of permit \$100
- D. 1. For filing claim to use right under section 42-243, Idaho Code \$100
2. For filing a late claim to use a water right under section 42-243, Idaho Code, where the date filed with the department of water resources or, the postmark if mailed to the department of water resources, is:
- i. After June 30, 1998 \$250
- ii. After June 30, 2005 \$500
- iii. For every ten (10) years after June 30, 2005, an additional \$500
- E. For filing an assignment of permit \$25.00
- F. For readvertising application for permit, change, exchange, or extension to resume use \$50.00
- G. For certification, each document \$1.00
- H. For making photo copies of office records, maps and documents for public use A reasonable charge as determined by the department.
- I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit \$50.00
- J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use A reasonable charge as determined by the department.
- K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use:
1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less \$50.00 except no fee shall be charged for domestic use for which a permit is not required.
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet \$100
3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet \$100 plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maximum fee not to exceed \$600.
- L. For filing a protest or request to intervene in a protested matter \$25.00
- M. For filing an application to alter a stream channel pursuant to chapter 38, title 42, Idaho Code:
1. Application for recreational dredge permits by residents of the state \$10.00

- 2. Application for recreational dredge permits by nonresidents of the state \$30.00
- 3. Other applications \$20.00
- N. For receipt of all notices of application within a designated area, a reasonable annual charge as determined by the department.
- O. For filing an application to change the point of diversion, place, period or nature of use of water under a vested water right:
 - 1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less \$200
 - 2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$500
 - 3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$500 plus \$80.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.
 - 4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s., or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$2,020 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.
 - 5. For a quantity greater than 100 c.f.s. but not exceeding 500 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$5,220 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.
 - 6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet \$13,220 plus \$4.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 500 c.f.s. or 50,000 acre feet.
 - 7. For any application to change the nature of use of water under one (1) or more vested water right(s), an additional fee of \$250 shall apply.
- P. For filing a notice of land application of effluent as required by section 42-201(8), Idaho Code \$150

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

Approved April 3, 2012.

CHAPTER 219
(H.B. No. 613)

AN ACT

RELATING TO THE IDAHO TRAVEL AND CONVENTION INDUSTRY COUNCIL; AMENDING SECTION 67-4712, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO TRAVEL AND CONVENTION INDUSTRY COUNCIL MEMBERS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-4713, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TERM OF OFFICE AND REMOVAL OF MEMBERS OF THE IDAHO TRAVEL AND CONVENTION INDUSTRY COUNCIL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-4712, Idaho Code, be, and the same is hereby amended to read as follows:

67-4712. IDAHO TRAVEL AND CONVENTION INDUSTRY COUNCIL -- CREATED -- APPOINTMENT OF MEMBERS. There is hereby created an advisory council to advise, as provided by this act, the department on matters related to the travel and convention industry. The council shall consist of eight (8) persons, who shall be appointed by and serve at the pleasure of the governor. The term of office of members of the council shall be three (3) years commencing on July January 1. An incumbent member whose term is scheduled to expire on July 1, 2012, shall serve until January 1, 2013.

SECTION 2. That Section 67-4713, Idaho Code, be, and the same is hereby amended to read as follows:

67-4713. MEMBERS' QUALIFICATIONS -- TERM OF OFFICE -- CONFLICT OF INTEREST. (1) Members of the council shall be individuals actively involved in the state's travel and convention industry, as a career or as an investment. Their selection shall be made with regard to their ability and disposition to serve the state's interest, and their knowledge of the state's travel industry. There shall be one (1) member appointed from each of the seven (7) planning regions of the state and one (1) member shall serve in a statewide capacity.

(2) Members of the council may not serve more than two (2) consecutive terms, nor may they hold or file for any partisan elective political office while a member of the council.

(3) A member of the council may be removed ~~for inefficiency, neglect of duty, misconduct in office or~~ if he is no longer a resident of the district from which he was appointed. Should a vacancy occur on the council, the governor shall appoint a person from the proper region, to fulfill the remaining term of the vacant position.

(4) Any member of the council who has a direct interest in any grant application or proposal being considered by the council, ~~must~~ shall disclose such interest, and ~~must~~ shall refrain from voting on the application or proposal.

Approved April 3, 2012.

CHAPTER 220
(H.B. No. 626)

AN ACT

RELATING TO PUBLIC SCHOOL TECHNOLOGY; AMENDING SECTION 33-1022, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPENDITURE OR DISTRIBUTION OF MONEYS FOR CERTAIN CLASSROOM TECHNOLOGY, TO PROVIDE FOR THE EXPENDITURE OF MONEYS FOR AN INTERNET-BASED CLEARINGHOUSE OF ONLINE COURSES; AND TO PROVIDE A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-1022, Idaho Code, be, and the same is hereby amended to read as follows:

33-1022. PUBLIC SCHOOL TECHNOLOGY. (1) Moneys shall be expended or distributed from the educational support program for public school technology as follows:

(a) For fiscal year 2012, an amount equal to one hundred eighty-six (186) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraphs (a) and (c)	77%
Paragraph (d)	23%

(b) For fiscal year 2013, an amount equal to one hundred ninety-one (191) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraphs (a) and (c)	77%
Paragraph (d)	23%

(c) For fiscal year 2014, an amount equal to one hundred ninety-five (195) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	16%
Paragraph (b)	36%
Paragraph (c)	31%
Paragraph (d)	17%

(d) For fiscal year 2015, an amount equal to one hundred ninety-five (195) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	16%
Paragraph (b)	36%
Paragraph (c)	31%
Paragraph (d)	17%

(e) For fiscal year 2016, an amount equal to one hundred fifty-seven (157) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	18%
Paragraph (b)	41%
Paragraph (c)	35%
Paragraph (d)	6%

(f) For fiscal year 2017 and each fiscal year thereafter, an amount equal to one hundred fifty-seven (157) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	20%
Paragraph (b)	37%
Paragraph (c)	37%
Paragraph (d)	6%

(g) The dollars allocated for paragraphs (a) through (d) of subsection (3) of this section may be reallocated among said subsections by the superintendent of public instruction, subject to a ten percent (10%) maximum cumulative change in the allocated amounts.

(2) For the purposes of subsection (1) of this section, the support unit figure used shall be statewide support units used to calculate the distribution of salary-based apportionment funds in the current fiscal year.

(3) Moneys expended or distributed pursuant to this section shall be utilized for one (1) or more of the following:

(a) Moneys shall be expended for the installation, repair, replacement and support of wireless technology in each public school serving high school grades, of sufficient capacity to support utilization of mobile computing devices by all students in such grades.

(b) Moneys shall be expended for high quality digital learning resources and software linked to state and local curricula, including model lesson plans, content and formative and summative assessments tied to rigorous college and career-ready standards and safe and secure online knowledge sharing and collaboration systems.

(c) Moneys shall be expended or distributed for classroom technology that assists teachers in the effective and efficient delivery of instruction. At least ninety-seven percent (97%) of the moneys expended or distributed for this paragraph shall be distributed to school districts, public charter schools and the Idaho school for the deaf and blind, less up to five hundred thousand dollars (\$500,000) in fiscal year 2013 and less up to one hundred fifty thousand dollars (\$150,000) in each fiscal year thereafter, which may be expended for

the development and maintenance of an internet-based clearinghouse of online courses.

(d) Moneys shall be expended or distributed for professional development and training that promotes the effective use of technology by students, staff and parents, the integration of technology into public school curricula and instructional methods, and the development of plans at the school, district and statewide level for the improved use and integration of technology in learning. As part of this paragraph, the superintendent of public instruction shall convene a task force to study and develop plans for the implementation of online course requirements, including the issue of online summer and overload courses, and the provision and support of one-to-one mobile computing devices for students, including an examination of the experience of other states and school districts, beginning in the 2012-2013 school year, and other topics determined by the task force chairman. The superintendent of public instruction shall serve as the task force chairman, and shall appoint to the task force, at a minimum, four (4) school district superintendents, two (2) school district technology directors, two (2) secondary school principals, one (1) school district business manager, one (1) head of school of a public virtual charter school, one (1) head of school of a traditional public charter school serving at least grades 9-12, two (2) secondary school classroom teachers, one (1) private sector education technology expert who is neither employed by, represents, nor is an agent of any entity that provides online courses or mobile computing devices and three (3) representatives of the business community. In addition, the Idaho house of representatives and the Idaho senate shall each appoint two (2) members, and each of the following organizations shall appoint one (1) individual to the task force: Idaho education association, northwest professional educators, Idaho school boards association, Idaho association of school administrators, Idaho business coalition for education excellence, Idaho digital learning academy and the office of the governor. The superintendent shall report the findings, plans and recommendations of this task force, including any recommendations for changes to statute or rule, to the senate and house of representatives education committees by no later than January 31, 2012.

(4) The state superintendent of public instruction shall include information on the uses, planned uses and impact of moneys distributed pursuant to this section as part of the annual report required by section 33-4805, Idaho Code.

SECTION 2. If Chapter 247, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

Approved April 3, 2012.

CHAPTER 221
(H.B. No. 633)

AN ACT

RELATING TO THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM; AMENDING SECTION 33-909, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE AUTHORIZATION OF EXPENDITURES FOR ADDITIONAL PLANS AND INFORMATION, TO PROVIDE THAT THE PANEL SHALL NOTIFY THE APPLICANT WITHIN NINETY DAYS OF RECEIVING THE APPLICATION, TO PROVIDE THAT THE PANEL MAY REQUEST A LEGISLATIVE APPROPRIATION OF ADDITIONAL MONEYS AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

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

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

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

(4) The application shall contain the following information:

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

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

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

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

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

(5) If the panel determines that it requires additional plans and information, it may authorize the expenditure of up to one hundred fifty thousand dollars (\$150,000) per application from the public school facilities cooperative fund for the procurement thereof. In considering an application, the panel shall determine whether the plan as proposed is acceptable, or is acceptable with modifications as determined by the panel, or should be rejected. If the application is approved or approved with modifications, any expenditures authorized by the panel pursuant to this subsection shall be added to the project. The panel shall notify the applicant of its decision, in writing, within ~~sixty ninety~~ (690) days of receiving the application. At the same time the panel notifies the applicant, the panel shall send notification of an approved application or a modified application to the state board of education, along with the panel's specifications for the project and its cost.

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

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

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

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

(b) The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support program in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.

(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (9) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

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

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

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

(b) The statewide average plant facility levy rate.

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

(10) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program, and are hereby continuously appropriated for such purposes as authorized by this section. Moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be credited to the school district building account.

Approved April 3, 2012.

CHAPTER 222
(H.B. No. 634)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029, IDAHO CODE, TO CLARIFY THE CREDIT FOR TAXES PAID TO OTHER STATES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, estate or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's, estate's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

(2) For purposes of this section:

(a) "State" shall include any state of the United States, the District of Columbia, or any possession or territory of the United States.

(b) Except as provided in subsection (3) (a) (i) of this section, "individual" shall include estates and trusts.

(c) References to "domiciled in" shall mean "a resident of" for purposes of computing the credit for trusts and estates.

(3) (a) Except as provided in subsection (3) (b) of this section:

(i) The credit provided under this section to an individual shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter.

(ii) The credit provided under this section to an estate or trust shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the federal total income of the estate or trust derived from sources in the other state and taxed by that state bears to the federal total income of the estate or trust. "Federal total income of the estate or trust derived from sources in the other state" shall be determined as provided under section 63-3026A, Idaho Code, as if the estate or trust was a nonresident.

(b) When tax is paid to another state on income of an S corporation, partnership, limited liability company, estate or trust, the limitation calculated in subsection (3) (a) of this section with respect to that income shall be based on the proportion that the individual taxpayer's share of the entity's taxable income correctly reported to the other state under the laws of the other state bears to the individual's adjusted gross income, as modified by this chapter. This limitation shall apply whether the tax is paid to the other state by the individual or by the S corporation, partnership, limited liability company, estate or trust.

(c) The credit provided under this section shall further be limited to the tax paid to the other state.

(4) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to the other state or a copy of any return or returns filed with such other state, or both.

(5) No credit allowed under this section shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction, unless the tax is restored to income on the Idaho return.

(6) The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this chapter.

(7) For purposes of this section an income tax imposed on an S corporation, partnership, limited liability company, estate or trust includes:

(a) A direct tax imposed upon the income for the taxable year of the S corporation, partnership, limited liability company, estate or trust; and

(b) An excise or franchise tax that is measured by the income for the taxable year of the S corporation, partnership, limited liability company, estate or trust.

(8) For purposes of subsection (7) of this section, an excise or franchise tax is "measured by income" only if the statute imposing the excise or franchise tax provides that the base for the tax:

(a) Includes:

- (i) Revenue from sales;
- (ii) Revenue from services rendered; and
- (iii) Income from investments; and

(b) Permits a deduction for one (1) or both of the following:

- (i) Tthe cost of goods sold, inventory or products with respect to revenue from sales; and
- (ii) Tthe cost of services rendered with respect to revenue from services rendered.

(9) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state in regard to income which is:

- (a) Earned while the taxpayer is domiciled or residing in this state; and
- (b) Subject to tax in such other state.

(10) If the interest in an S corporation, partnership, limited liability company, estate or trust was held for less than the entire taxable year, the share attributable to the individual shall be allocated in the same manner as for federal purposes.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2012.

Approved April 3, 2012.

CHAPTER 223
(H.B. No. 635)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2013; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2013, 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, 2012, 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, 2013, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Sixty-first Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2013, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Sixty-first 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, 2013, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 3, 2012.

CHAPTER 224
(H.B. No. 645)

AN ACT

RELATING TO SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION, MEMBERS OF THE TAX COMMISSION AND MEMBERS OF THE INDUSTRIAL COMMISSION; AMENDING SECTION 61-215, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE STATE TAX COMMISSION; AND AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE INDUSTRIAL COMMISSION.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 2008 2012, the annual salary of members of the public utilities commission shall be ninety-two thousand one hundred sixty-seven ten dollars (\$92,16794,010) and shall be paid from sources set by the legislature.

SECTION 2. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties. Commencing on July 1, 2008 2012, the annual salary for members of the state tax commission shall be eighty-five seven thousand four hundred forty-seven one hundred fifty-six dollars (\$85,44787,156).

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, 2008 2012, the annual salary of each member of the industrial commission shall be ~~eighty-nine~~ ninety-one thousand ~~seven hundred eleven~~ five hundred five dollars (\$~~89,711~~91,505). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

Approved April 3, 2012.

CHAPTER 225
(H.B. No. 648)

AN ACT

RELATING TO JUDGMENT; AMENDING SECTION 19-2522, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN EXAMINATION OF DEFENDANT FOR EVIDENCE OF MENTAL CONDITION; AMENDING SECTION 19-2524, IDAHO CODE, TO PROVIDE THAT CERTAIN EXPENSES SHALL BE BORNE BY THE DEPARTMENT OF CORRECTION, TO GRANT THE DEPARTMENT OF CORRECTION CERTAIN RULEMAKING AUTHORITY AND TO REVISE PROVISIONS RELATING TO CERTAIN EXPENSES BORNE BY THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 19-2524, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT AND TO ESTABLISH PROVISIONS RELATING TO CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAVIORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS; PROVIDING A SUNSET DATE AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 19-2522, Idaho Code, be, and the same is hereby amended to read as follows:

19-2522. EXAMINATION OF DEFENDANT FOR EVIDENCE OF MENTAL CONDITION -- APPOINTMENT OF PSYCHIATRISTS OR LICENSED PSYCHOLOGISTS -- HOSPITALIZATION -- REPORTS. (1) If there is reason to believe the mental condition of the defendant will be a significant factor at sentencing and for good cause shown, the court shall appoint at least one (1) psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code. The order appointing or requesting the designation of a psychiatrist or licensed psychologist shall specify the issues to be resolved for which the examiner is appointed or designated.

(2) In making such examination, any method may be employed which is accepted by the examiner's profession for the examination of those alleged to be suffering from a mental illness or defect.

(3) The report of the examination shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis, evaluation or prognosis of the mental condition of the defendant;

(c) An analysis of the degree of the defendant's illness or defect and level of functional impairment;

(d) A consideration of whether treatment is available for the defendant's mental condition;

(e) An analysis of the relative risks and benefits of treatment or non-treatment;

(f) A consideration of the risk of danger which the defendant may create for the public if at large.

(4) The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(5) When the defendant wishes to be examined by an expert of his own choice, such examiner shall be permitted to have reasonable access to the defendant for the purpose of examination.

(6) If a mental health examination of the defendant has previously been conducted, whether pursuant to section 19-2524, Idaho Code, or for any other purpose, and a report of such examination has been submitted to the court, and if the court determines that such examination and report provide the necessary information required ~~by this section, including all of the information specified in subsection (3) of this section, and the examination is sufficiently recent to reflect the defendant's present mental condition,~~ then the court may consider such prior examination and report as the examination and report required by this section and need not order an additional examination of the defendant's mental condition. The provisions of this subsection shall not apply to examinations and reports performed or prepared pursuant to section 18-211 or 18-212, Idaho Code, for the purpose of determining the defendant's fitness to proceed, unless the defendant knowingly, voluntarily and intelligently consents to having such examination and report used at sentencing.

(7) Nothing in this section is intended to limit the consideration of other evidence relevant to the imposition of sentence.

SECTION 2. That Section 19-2524, Idaho Code, be, and the same is hereby amended to read as follows:

19-2524. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT. (1) When a defendant has pled guilty to or been found guilty of a felony, or when a defendant who has been convicted of a felony has admitted to or been found to have committed a violation of a condition of probation, the court, prior to the sentencing hearing or the hearing on revocation of probation, may order the defendant to undergo a substance abuse assessment and/or a mental health examination.

(2) If a substance abuse assessment ordered pursuant to this section indicates that the defendant is a drug addict or alcoholic, as those terms are defined in section 39-302, Idaho Code, then the assessment submitted to the court shall also include a plan of treatment. If the court concludes at sentencing that the defendant is a drug addict or alcoholic, as those terms are defined in section 39-302, Idaho Code, and if the court places the defendant on probation, the court may order the defendant, as a condition of probation, to undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court.

(3) (a) If a mental health examination is ordered pursuant to this section, the report of the mental health examination shall include the following:

- (i) A description of the nature of the examination;
- (ii) A diagnosis, evaluation or prognosis of the mental condition of the defendant;
- (iii) An analysis of the degree of the defendant's illness or defect and level of functional impairment;
- (iv) A consideration of whether treatment is available for the defendant's mental condition;
- (v) An analysis of the relative risks and benefits of treatment or nontreatment;
- (vi) A consideration of the risk of danger which the defendant may create for the public if at large; and

(vii) A plan of treatment if the mental health examination indicates that:

1. The defendant suffers from a severe and reliably diagnosable mental illness or defect;
2. Without treatment, the immediate prognosis is for major distress resulting in serious mental or physical deterioration of the defendant;
3. Treatment is available for such illness or defect; and
4. The relative risks and benefits of treatment or non-treatment are such that a reasonable person would consent to treatment.

(b) If the court, after receiving the mental health assessment and plan of treatment, determines that additional information is necessary to determine whether the factors listed above in subsection (3) (a) are present, or to determine an appropriate plan of treatment, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist.

(c) If the court concludes at sentencing that all of the factors listed above in subsection (3) (a) are present, and if the court places the defendant on probation, then the court may order as a condition of probation that the defendant undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court.

(4) Where the court has ordered either a substance abuse assessment or mental health examination of the defendant pursuant to this section, the court shall also order a criminogenic risk assessment of the defendant if such an assessment is not provided in the presentence report. Any substance abuse assessment or report of mental health examination shall, in addition to the criminogenic risk assessment, be delivered to the court, the defendant and the prosecuting attorney prior to the sentencing or the hearing on revocation of probation.

(5) If the defendant is sentenced to the custody of the board of correction, then any substance abuse assessment, report of mental examination, plan of treatment or criminogenic risk assessment shall be sent to the department of correction along with the presentence report.

(6) The expenses of all screenings and assessments for substance use disorder provided or ordered under this section shall be borne by the department of correction. The expenses for treatment provided or ordered under this section shall be borne by the department of correction unless the defendant is placed in a treatment program that is funded by an alternate source. The department of correction shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of correction for the service provided to the defendant. The department of correction may promulgate rules for a schedule of fees to be charged to defendants for the substance use disorder assessments and treatments provided to the defendants based upon the actual costs of such services and the ability of a defendant to pay. The department of correction shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.

~~(7) The expenses of the assessments and all mental health examinations, including any evaluation or recommendations for treatment ordered under subsection (3) (a) of this section, and any treatment provided or ordered by the court pursuant to this section shall be borne by the department of health and welfare. The department of health and welfare shall be entitled to any payment received by the defendant or to which he may be entitled for the assessments, examinations and treatment, and to any payment from any public or private source available to the department of health and welfare because of the assessments, examinations and treatment provided to the defendant. The department of health and welfare is authorized to promulgate rules for~~

a schedule of fees to be charged to defendants for the assessments, evaluations mental health examinations and treatments provided to the defendants based upon the costs of such services and the ability of the defendants to pay. The department of health and welfare shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.

SECTION 3. That Section 19-2524, Idaho Code, be, and the same is hereby amended to read as follows:

19-2524. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAVIORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) When After a defendant has pled guilty to or been found guilty of a felony, or when a defendant who has been convicted of a felony has admitted to or been found to have committed a violation of a condition of probation, the court, prior to the sentencing hearing or the hearing on revocation of probation, may order the defendant to undergo a substance abuse assessment and/or a mental health examination and at any time thereafter while the court exercises jurisdiction over the defendant, behavioral health needs determinations shall be conducted when, and as provided by, this section.

(a) As part of the presentence process, a screening to determine whether a defendant is in need of a substance use disorder assessment and/or a mental health examination shall be made in every felony case unless the court waives the requirement for a screening. The screening shall be performed within seven (7) days after the plea of guilty or finding of guilt.

(b) At any time after sentencing while the court exercises jurisdiction over the defendant, the court may order such a screening to be performed by individuals authorized or approved by the department of correction if the court determines that one is indicated. The screening shall be performed within seven (7) days after the order of the court requiring such screening.

(2) If a substance abuse assessment ordered pursuant to this section indicates that the defendant is a drug addict or alcoholic, as those terms are defined in section 39-302, Idaho Code, then the assessment submitted to the court shall also include a plan of treatment. If the court concludes at sentencing that the defendant is a drug addict or alcoholic, as those terms are defined in section 39-302, Idaho Code, and if the court places the defendant on probation, the court may order the defendant, as a condition of probation, to undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court Substance use disorder provisions.

(a) Should a screening indicate the need for further assessment of a substance use disorder, the necessary assessment shall be timely performed so as to avoid any unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening. The assessment may be performed by qualified employees of the department of correction or by private providers approved by the department of health and welfare. If the screening or assessment is not timely completed, the court may order that the screening be performed by another qualified provider.

(b) Following completion of the assessment, the results of the assessment, including a determination of whether the defendant meets diagnostic criteria for a substance use disorder and the recommended level of care, shall be submitted to the court as part of the presentence investigation report or other department of correction report to the court.

(c) Following the entry of a plea of guilty or a finding of guilt, the court may order, as a condition of the defendant's continued release on bail or on the defendant's own recognizance, that if the assessment reflects that the defendant meets diagnostic criteria for a substance use disorder, the defendant shall promptly, and prior to sentencing, begin treatment at the recommended level of care.

(d) If the court concludes at sentencing, or at any time after sentencing while the court exercises jurisdiction over the defendant, that the defendant meets diagnostic criteria for a substance use disorder, and if the court places the defendant on probation, the court may order the defendant, as a condition of probation, to undergo treatment at the recommended level of care, subject to modification of the level of care by the court. If substance use disorder treatment is ordered, all treatment shall be performed by a qualified private provider approved by the department of health and welfare. The court may order that if the level of care placement or the treatment plan is modified in any material term, the department of correction shall notify the court stating the reason for the modifications and informing the court as to the clinical alternatives available to the defendant.

(e) In no event shall the persons or facility doing the assessment be the person or facility that provides the treatment unless this requirement is waived by the court or where the assessment and treatment are provided by or through a federally recognized Indian tribe or federal military installation, where diagnosis and treatment are appropriate and available.

(f) Defendants who have completed department of correction institutional programs may receive after care services from qualified employees of the department of correction.

(g) The expenses of all screenings and assessments for substance use disorder provided or ordered under this section shall be borne by the department of correction. The expenses for treatment provided or ordered under this section shall be borne by the department of correction unless the defendant is placed in a treatment program which is funded by an alternate source. The department of correction shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of correction for the service provided to the defendant. The department of correction may promulgate rules for a schedule of fees to be charged to defendants for the substance use disorder assessments and treatments provided to the defendants based upon the actual costs of such services and the ability of a defendant to pay. The department of correction shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.

~~(3) (a) If a mental health examination is ordered pursuant to this section, the report of the mental health examination shall include the following provisions.~~

(a) Should the mental health screening indicate that a serious mental illness may be present, then the department of correction shall refer the defendant to the department of health and welfare for further examination. The examination shall be timely performed so as to avoid any unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening.

(b) The examination may be performed by qualified department of health and welfare employees or by private providers under contract with the department of health and welfare, provided that such examination shall at a minimum include an in-depth evaluation of the following:

(i) A description of the nature of the examination Mental health concerns;

~~(ii) A diagnosis, evaluation or prognosis of the mental condition of the defendant Psychosocial risk factors;~~
~~(iii) An analysis of the degree of the defendant's illness or defect and level of functional impairment Medical, psychiatric, developmental and other relevant history;~~
~~(iv) A consideration of whether treatment is available for the defendant's mental condition Functional impairments;~~
~~(v) An analysis of the relative risks and benefits of treatment or nontreatment Mental status examination;~~
~~(vi) A consideration of the risk of danger which the defendant may create for the public if at large Multiaxial diagnoses; and~~
~~(vii) A plan of treatment if the mental health examination indicates that: Any other examinations necessary to provide the court with the information set forth in paragraph (c) of this subsection.~~

- ~~1. The defendant suffers from a severe and reliably diagnosable mental illness or defect;~~
- ~~2. Without treatment, the immediate prognosis is for major distress resulting in serious mental or physical deterioration of the defendant;~~
- ~~3. Treatment is available for such illness or defect; and~~
- ~~4. The relative risks and benefits of treatment or nontreatment are such that a reasonable person would consent to treatment.~~

~~(b) If the court, after receiving the mental health assessment and plan of treatment, determines that additional information is necessary to determine whether the factors listed above in subsection (3) (a) are present, or to determine an appropriate plan of treatment, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist.~~

~~(c) If the court concludes at sentencing that all of the factors listed above in subsection (3) (a) are present, and if the court places the defendant on probation, then the court may order as a condition of probation that the defendant undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court. Upon completion of the mental health examination, the court shall be provided, as part of the presentence report or other department of health and welfare report to the court, a copy of the mental health assessment along with a summary report. The summary report shall include the following:~~

- ~~(i) Description and nature of the examination;~~
- ~~(ii) Multiaxial diagnoses;~~
- ~~(iii) Description of the defendant's diagnosis and if the defendant suffers from a serious mental illness (SMI) as that term is now defined, or is hereafter amended, in IDAPA 16.07.33.010, to also include post-traumatic stress disorder;~~
- ~~(iv) An analysis of the degree of impairment due to the defendant's diagnosis;~~
- ~~(v) Consideration of the risk of danger the defendant may create for the public; and~~
- ~~(vi) If the defendant suffers from a serious mental illness the report shall also include a plan of treatment that addresses the following:~~
 - ~~1. An analysis of the relative risks and benefits of treatment versus nontreatment;~~
 - ~~2. Types of treatment appropriate for the defendant; and~~
 - ~~3. Beneficial services to be provided.~~

~~(d) If the court, after receiving a mental health examination and plan of treatment, determines that additional information is needed regard-~~

ing the mental condition of the defendant or the risk of danger such condition may create for the public, the court may order additional evaluations and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist.

(e) If the court concludes that the defendant suffers from a serious mental illness as defined in paragraph (c) (iii) of this subsection and that treatment is available for such serious mental illness, then the court may order, as a condition of the defendant's release on bail or on the defendant's own recognizance or as a condition of probation, that the defendant undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court. If the plan of treatment is modified in any material term, the department of health and welfare shall notify the court in a timely manner stating the reasons for the modification and informing the court as to the clinical alternatives available to the defendant.

(f) If treatment is ordered, all treatment shall be performed by a provider approved by the department of health and welfare.

(g) The expenses of all mental health examinations and/or treatment provided or ordered under this section shall be borne by the department of health and welfare. The department of health and welfare shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of health and welfare for the service provided to the defendant. The department of health and welfare is authorized to promulgate rules for a schedule of fees to be charged to defendants for the mental health examinations and treatments provided to the defendants based upon the actual costs of such services and the ability of a defendant to pay. The department of health and welfare shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.

~~(4) Where the court has ordered either a substance abuse assessment or mental health examination of the defendant pursuant to this section, the court shall also order a criminogenic risk assessment of the defendant if such an assessment is not provided in the presentence report. Any substance abuse assessment or report of mental health examination shall, in addition to the criminogenic risk assessment, be delivered to the court, the defendant and the prosecuting attorney prior to the sentencing or the hearing on revocation of probation. Unless otherwise ordered by the court, if the defendant is in treatment for a substance use disorder or mental illness, any substance use disorder assessment required under subsection (2) of this section or mental health examination required under subsection (3) of this section need not be performed while the defendant is in such treatment. In such circumstances, the court may make such order as it finds appropriate to facilitate the completion of the sentencing process or other proceeding before the court, including providing for the assessment and treatment records to be included in the presentence investigation report or other report to the court.~~

~~(5) If the defendant is sentenced to the custody of the board of correction, then any substance abuse assessment, report of mental examination, plan of treatment or criminogenic risk assessment shall be sent to the department of correction along with the presentence report. Any substance use disorder assessment including any recommended level of care or mental health examination including any plan of treatment shall be delivered to the court, the defendant and the prosecuting attorney prior to any sentencing hearing or probation revocation hearing.~~

~~(6) The expenses of the assessments and examinations, including any evaluation or recommendations for treatment ordered under subsection (3) (a) of this section, and any treatment ordered by the court pursuant to this section shall be borne by the department of health and welfare. The depart-~~

~~ment of health and welfare shall be entitled to any payment received by the defendant or to which he may be entitled for the assessments, examinations and treatment, and to any payment from any public or private source available to the department of health and welfare because of the assessments, examinations and treatment provided to the defendant. The department of health and welfare is authorized to promulgate rules for a schedule of fees to be charged to defendants for the assessments, evaluations and treatments provided to the defendants based upon the costs of such services and the ability of the defendants to pay~~ A substance use disorder assessment prepared pursuant to the provisions of this section shall satisfy the requirement of an alcohol evaluation prior to sentencing set forth in section 18-8005(11), Idaho Code, and shall also satisfy the requirement of a substance abuse evaluation prior to sentencing set forth in section 37-2738, Idaho Code.

(7) If the defendant is sentenced to the custody of the board of correction, then any substance use disorder assessment, mental health examination or plan of treatment shall be sent to the department of correction along with the presentence report.

SECTION 4. The provisions of Section 2 of this act shall be null, void and of no force and effect on and after March 1, 2013, and Section 3 of this act shall be in full force and effect on and after March 1, 2013.

Approved April 3, 2012.

CHAPTER 226
(H.B. No. 649)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1003, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 41-1004, IDAHO CODE, TO PROVIDE FOR AN EXEMPTION FROM A LICENSE FOR A PERSON ACTING UNDER A LICENSED BUSINESS ENTITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1081, IDAHO CODE, TO PROVIDE FOR FINDINGS OF THE LEGISLATURE AND PURPOSE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1082, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1083, IDAHO CODE, TO PROVIDE FOR A LIMITED LINES LICENSE FOR A VENDOR SELLING PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1084, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE SALE OF PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1085, IDAHO CODE, TO PROVIDE FOR THE AUTHORITY OF A VENDOR HOLDING A LIMITED LINES LICENSE TO SELL PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1086, IDAHO CODE, TO PROVIDE FOR A VENDOR'S RESPONSIBILITY FOR THE ACTIONS OF ITS EMPLOYEES AND AUTHORIZED REPRESENTATIVES ACTING UNDER THE VENDOR'S LICENSE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1087, IDAHO CODE, TO PROVIDE FOR PENALTIES FOR A VENDOR VIOLATING THE REQUIREMENTS FOR THE SALE OR OFFERING OF PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1088, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE TERMINATION OR MODIFICATION OF A POLICY OF PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1089, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR A VENDOR APPLYING FOR A LIMITED LINES LICENSE TO SELL OR OFFER PORTABLE ELECTRONICS INSURANCE; AMENDING SECTION 41-1102, IDAHO CODE, TO PRO-

VIDE AN EXEMPTION FROM PORTABLE CONSUMER ELECTRONIC INSURANCE ADJUSTER LICENSURE FOR A CLERICAL PERSON; AMENDING SECTION 41-1103, IDAHO CODE, TO PROVIDE THE MANNER IN WHICH CANADIAN RESIDENTS MAY BE LICENSED TO ADJUST CLAIMS; AMENDING SECTION 41-1104, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-1003, Idaho Code, be, and the same is hereby amended to read as follows:

41-1003. DEFINITIONS. (1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(2) "Home state" means the District of Columbia and any state or territory of the United States or any province of Canada in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(3) "License" means a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(4) "Limited lines insurance" is insurance which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code, and shall include, but not be limited to: credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, transportation baggage insurance, transportation ticket policies covering personal accident insurance, pet insurance, portable electronics insurance or any other line of insurance that the director deems necessary to recognize for the purposes of complying with section 41-1009(5), Idaho Code.

(5) "Limited lines producer" means a producer authorized by the director to sell, solicit or negotiate limited lines insurance.

(6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in the act either sells insurance or obtains insurance from insurers for purchasers.

(7) "Person" means an individual or a business entity.

(8) "Producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(9) "Resident" means a person whose home state is Idaho or any other particular state identified in conjunction with the use of the term.

(10) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(11) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company or companies.

(12) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance for or on behalf of an insurer.

(13) "Uniform application" means the current version of the national association of insurance commissioners (NAIC) uniform application for resident and nonresident producer licensing.

(14) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

SECTION 2. That Section 41-1004, Idaho Code, be, and the same is hereby amended to read as follows:

41-1004. LICENSE REQUIRED. (1) A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed as a producer for that line of authority in accordance with this chapter.

(2) A person shall not, for a fee, engage in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any policy of insurance that could be issued in Idaho unless that person is:

(a) A licensed insurance producer offering advice concerning a class of insurance as to which the producer is licensed to transact business in this state;

(b) An attorney rendering services in the performance of the duties of an attorney;

(c) A certified public accountant rendering services in the performance of the duties of a certified public accountant, as authorized by law;

(d) An actuary rendering actuarial services if such actuary is a member of an organization determined by the director as establishing standards for the actuarial profession;

(e) A person providing services to producers or authorized insurers only;

(f) A person rendering services as an expert pursuant to the Idaho rules of evidence; ~~or~~

(g) An investment adviser, investment adviser representative or ~~federally-covered~~ federally covered investment adviser as defined in section 30-14-102, Idaho Code; or

(h) A person rendering such services pursuant to a license issued in accordance with sections 41-1081 through 41-1089 of this chapter.

SECTION 3. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1081, Idaho Code, and to read as follows:

41-1081. REQUIREMENTS FOR SALE OF PORTABLE ELECTRONICS INSURANCE -- FINDINGS -- PURPOSE. (1) Sections 41-1081 through 41-1089, Idaho Code, set forth requirements for the sale of portable electronics insurance in this state.

(2) The legislature finds that portable electronics insurers and insurance producers who sell, solicit or negotiate the offer or sale of such insurance in this state shall be supervised and regulated by the department of insurance in a uniform and consistent manner.

SECTION 4. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1082, Idaho Code, and to read as follows:

41-1082. DEFINITIONS. As used in sections 41-1081 through 41-1089, Idaho Code:

(1) "Customer" means a person who purchases portable electronics or services.

(2) "Enrolled Customer" means a customer who purchases coverage under a portable electronics insurance policy issued to a vendor of portable electronics, which vendor would be the insured under a master or group policy.

(3) "Location" means any physical location in the state of Idaho or any website, call center site or similar location directed to residents of the state of Idaho.

(4) "Portable electronics" means electronic devices that are portable in nature and includes accessories and any services related to the use of such device.

(5) (a) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics against any one (1) or more of the following causes of loss: loss of the portable electronic device, theft, inoperability due to mechanical failure, malfunction, damage or other similar causes of loss;

(b) "Portable electronics insurance" does not include:

- (i) A service contract as defined in section 41-114A, Idaho Code;
- (ii) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or
- (iii) A homeowner's, renter's, private passenger automobile, commercial multi-peril or similar insurance policy.

(6) "Portable electronics transaction" means:

- (a) The sale or lease of portable electronics by a vendor to a customer; or
- (b) The sale of a service related to the use of portable electronics by a vendor to a customer.

(7) "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is authorized by an insurer to supervise the administration of a portable electronics insurance program.

(8) "Vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly.

SECTION 5. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1083, Idaho Code, and to read as follows:

41-1083. LICENSURE OF VENDORS. (1) A vendor is required to hold a limited lines license to sell or offer coverage under a policy of portable electronics insurance.

(2) A limited lines license issued pursuant to the provisions of this section shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

(3) The supervising entity shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the director to the supervising entity, the registry shall be open to inspection and examination by the director during regular business hours of the supervising entity.

(4) Notwithstanding any other provision of law, a limited lines license issued pursuant to this section shall authorize the licensee and its employ-

ees or authorized representatives to engage in those activities that are permitted in this section.

SECTION 6. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1084, Idaho Code, and to read as follows:

41-1084. REQUIREMENTS FOR SALE OF PORTABLE ELECTRONICS INSURANCE. (1) At every location where portable electronics insurance is offered or sold to customers, brochures or other written materials must be provided by the vendor to a prospective customer which:

- (a) Disclose that portable electronics insurance may duplicate coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy or other source of insurance coverage;
- (b) State that the purchase by the customer of a portable electronics insurance policy is not required in order to purchase or lease portable electronics or related services;
- (c) Summarize the material terms of the insurance coverage, including:
 - (i) The identity of the insurer;
 - (ii) The identity and contact information of the supervising entity;
 - (iii) The amount of any applicable deductible and how it is to be paid;
 - (iv) Benefits of the insurance coverage; and
 - (v) Key terms and conditions of the insurance coverage such as whether portable electronics may be repaired or replaced with similar make and model, reconditioned or nonoriginal manufacturer parts or equipment;
- (d) Set forth the process for filing a claim, including a description of how to return portable electronics and any deadlines applicable thereto, any fees that may apply and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and
- (e) State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and that the person who paid the premium shall receive a pro rata refund or credit of any applicable unearned premium.

(2) The director may order a vendor to stop using any brochure or other written material that violates the requirements of this section or is otherwise found to be misleading or false.

(3) Portable electronics insurance may be offered on a month to month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

(4) Eligibility and underwriting standards for customers electing to purchase portable electronics insurance coverage shall be established for each portable electronics insurance program by the insurer issuing a policy to a vendor.

SECTION 7. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1085, Idaho Code, and to read as follows:

41-1085. AUTHORITY OF VENDORS OF PORTABLE ELECTRONICS. (1) Notwithstanding any other provision of law, the employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under the provisions of this chapter provided that:

(a) The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to the provisions of this section;

(b) The insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity who shall supervise the administration of the program, to include development of a training program for employees and authorized representatives of the vendors concerning the applicable requirements of this chapter prior to the transaction of any personal electronics insurance. The training required by the provisions of this section shall comply with the following:

(i) The training shall be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance;

(ii) The training may be provided in electronic form. However, if conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product being offered or sold that is conducted and overseen by employees of the supervising entity that are licensed pursuant to this chapter;

(iii) Each employee and authorized representative shall receive basic instruction concerning the portable electronics insurance offered to customers and the disclosures required pursuant to section 41-1084, Idaho Code; and

(c) No employee or authorized representative of a vendor of portable electronics shall advertise, represent or otherwise hold himself out as a limited lines or other licensed insurance producer.

(2) The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included in the portable electronics or related services purchased. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account, provided that the vendor is authorized by the insurer to hold such funds in a nonsegregated account and is required to remit such amounts to the supervising entity within sixty (60) days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Failure to do so is a violation of this section. Vendors may receive compensation for billing and collection services.

SECTION 8. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1086, Idaho Code, and to read as follows:

41-1086. RESPONSIBILITY FOR ACTIONS OF OTHERS. For purposes of licensing and regulation under title 41, Idaho Code, a portable electronics limited lines licensee shall be responsible for the actions of the licensee's employees and authorized representatives acting on the licensee's behalf in relation to portable electronics insurance transactions and matters arising out of the same. Any violation of this chapter by the licensee's employees and authorized representatives acting on the licensee's behalf shall be considered a violation by the licensee.

SECTION 9. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1087, Idaho Code, and to read as follows:

41-1087. SUSPENSION OR REVOCATION OF LICENSE. If a vendor of portable electronics or its employee or authorized representative violates any applicable provision of this chapter including, but not limited to, section 41-1016, Idaho Code, or applicable provisions of chapter 13, title 41, Idaho Code, or an applicable rule, the director may:

(1) Impose an administrative penalty pursuant to section 41-117, Idaho Code. However, penalties arising from the same or similar conduct shall not exceed fifty thousand dollars (\$50,000) in the aggregate; and

(2) Impose other penalties that the director deems necessary and reasonable, including:

(a) Prohibiting such vendor from transacting portable electronics insurance pursuant to the provisions of this section at specific business locations where violations have occurred or from using specific employees or representatives in the transaction of portable electronics insurance; and

(b) Suspending, revoking or refusing to renew the license of such vendor.

SECTION 10. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1088, Idaho Code, and to read as follows:

41-1088. TERMINATION OF PORTABLE ELECTRONICS INSURANCE. Notwithstanding any other provision of law:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least thirty (30) days' notice.

(2) If the insurer changes the terms and conditions, then the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes. An enrolled customer shall be entitled to reject any change to the terms and conditions or cancel coverage, and the person who paid the premium shall receive a pro rata refund or credit of any applicable unearned premium within sixty (60) days of the receipt of notice from the customer that he wishes to cancel coverage.

(3) Notwithstanding subsection (1) of this section, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen (15) days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

(4) Notwithstanding subsection (1) of this section, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

(a) For nonpayment of premium;

(b) If the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(c) If an enrolled customer exhausts the aggregate limit of liability under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty (30) calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer and specifies the date of such termination.

(5) Where a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled customer at least thirty (30) days prior to the termination, and any unearned premium shall be returned to the policyholder within sixty (60) days of such termination.

(6) An enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time, and the person paying the premium shall receive a pro rata refund or credit of any applicable unearned premium within sixty (60) days of the receipt of notice of cancellation from the customer.

(7) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the provisions of this section or is otherwise required by law, it shall be in writing and sent within the required notice period, if any, specified within the statute or regulation requiring the notice or correspondence. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means if agreed to by the customer pursuant to section 28-50-105, Idaho Code, and as set forth in this subsection. If the notice or correspondence is mailed, it shall be sent to the vendor of portable electronics at the vendor's mailing address specified for such purpose and to each affected enrolled customer's last known mailing address on file with the insurer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the vendor of portable electronics at the vendor's electronic mail address specified for such purpose and to each affected enrolled customer's last known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronics at the time of purchase of the portable electronics insurance coverage. For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer or vendor of portable electronics shall be deemed consent to receive notices and correspondence by electronic means at such address so long as notice of that consent is simultaneously provided to the customer. The insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

(8) Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor by the supervising entity appointed by the insurer.

SECTION 11. That Chapter 10, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1089, Idaho Code, and to read as follows:

41-1089. APPLICATION FOR LICENSE AND FEES. (1) A sworn application for a limited lines license to sell, solicit or negotiate portable electronics insurance shall be completed and filed with the department of insurance on forms prescribed by the director to include such information as the director deems necessary.

(2) The application shall:

(a) Provide the name, residence address and other information required by the director for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this chapter, which designation shall satisfy the requirements of section 41-1007(2)(b), Idaho Code. However, if the vendor derives more than fifty percent (50%) of its revenue from the sale of portable electronics insurance, the information noted

in this subsection shall be provided for all officers, directors, and shareholders of record having beneficial ownership of ten percent (10%) or more of the vendor;

(b) Provide the location of the applicant's home office, both street address and mailing address, and phone number where such applicant may be reached during regular business hours; and

(c) Provide the syllabus for the training program that is developed by the supervising entity or the insurer that issued the portable electronics insurance policy to the vendor.

(3) Any vendor engaging in portable electronics insurance transactions on or before the effective date of sections 41-1081 through 41-1089, Idaho Code, must apply for licensure within ninety (90) days of the application being made available to the vendor by the director. Any applicant commencing operations after the effective date of sections 41-1081 through 41-1089, Idaho Code, must obtain a license prior to offering or selling portable electronics insurance.

(4) Notwithstanding any other provision of law, applicants for licensure pursuant to sections 41-1081 through 41-1089, Idaho Code, whose home state does not issue a producer license with a similar line of authority as the license authorized by such sections shall be issued a portable electronics limited lines license upon satisfying all applicable requirements of this chapter. However, any licensee whose home state does not authorize a limited lines license for portable electronics insurance in its home state after July 1, 2014, or such later date as may be determined by the director, shall obtain a property and casualty license under title 41, Idaho Code, or its license shall terminate in Idaho. For the purposes of this subsection, "home state" means the District of Columbia and any state or territory of the United States except Idaho, or any province of Canada, in which an applicant maintains such person's principal place of residence or principal place of business.

(5) Initial licenses issued pursuant to sections 41-1081 through 41-1089, Idaho Code, shall be valid for a period of twenty-four (24) months and expire thereafter unless renewed by the director upon completion of forms required by the director and payment of fees consistent with the provisions of this chapter.

(6) Each vendor of portable electronics licensed pursuant to this chapter shall pay to the director a fee of one thousand dollars (\$1,000) for an initial portable electronics limited lines license and five hundred dollars (\$500) for each renewal thereof. However, for a vendor engaged in portable electronics transactions at ten (10) or fewer locations in the state of Idaho, the fee shall not exceed one hundred dollars (\$100) for an initial license and for each renewal thereof.

SECTION 12. That Section 41-1102, Idaho Code, be, and the same is hereby amended to read as follows:

41-1102. "ADJUSTER" DEFINED. (1) An "adjuster" is a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of such an independent contractor, or for fee or commission, investigates and negotiates settlement of claims arising under insurance contracts.

(2) None of the following is an "adjuster" for the purposes of this chapter:

(a) A licensed attorney at law who is qualified to practice law in this state.

(b) The salaried employee of an authorized insurer, or group of such insurers under common control or ownership, or of a managing general agent, who adjusts losses for such insurer or insurers or for the authorized insurers represented by the general agent.

(c) The licensed agent of an authorized insurer who, at the insurer's request, from time to time adjusts or assists in adjustment of losses arising under policies issued by such insurer.

(d) An individual who collects claim information from, or furnishes claim information to, claimants or those who are insured and who conducts data entry, including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed adjuster or its affiliate where no more than twenty-five (25) such persons are under the supervision of one (1) licensed adjuster or licensed agent. A licensed agent who acts as a supervisor or adjusts claims pursuant to the provisions of this paragraph is not required to also be licensed as an adjuster. For purposes of this section, "automated claims adjudication system" means a pre-programmed computer system designed for the collection, data entry, calculation and final resolution of portable electronics insurance claims that:

(i) May only be utilized by a licensed adjuster, licensed agent or supervised individuals operating pursuant to the provisions of this paragraph;

(ii) Must comply with all claims payment requirements of the insurance code; and

(iii) Must be certified as compliant with this section by a licensed adjuster who is an officer of a licensed business entity pursuant to the provisions of this chapter.

SECTION 13. That Section 41-1103, Idaho Code, be, and the same is hereby amended to read as follows:

41-1103. LICENSE REQUIRED. No person shall in this state be, act as, or advertise or hold himself out to be, an adjuster unless then licensed as an adjuster under this chapter. No resident of Canada may be licensed as a resident adjuster or may designate Idaho as his home state, unless such person has successfully passed the adjuster examination and has complied with the other applicable provisions of this chapter. No resident of Canada may be licensed as a nonresident adjuster unless such person has obtained a resident or home state adjuster license in another state.

SECTION 14. That Section 41-1104, Idaho Code, be, and the same is hereby amended to read as follows:

41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE. (1) Except as provided in subsection (2) below of this section, the director shall not issue, continue, or permit to exist any license as an adjuster as to any person not qualified therefor as follows:

(a) Must be a natural person not less than twenty-one (21) years of age.

(b) Must be trustworthy, and be of good character and reputation as to morals, integrity, and financial responsibility, and must not have been convicted of a felony or of any crime involving moral turpitude.

(c) Must be a salaried employee of a licensed adjuster, or must have had experience or special education or training as to the investigation and settlement of loss of claims under insurance contracts of sufficient duration and extent reasonably to satisfy the director as to his competence to fulfill the responsibilities of an adjuster.

(d) If required by the director, must pass a written examination to test his knowledge of the duties and responsibilities of an adjuster and of matters involved in transactions under an adjuster's license. The examination shall be subject to the same applicable provisions as apply under this code pursuant to title 41, Idaho Code, to examinations for license as insurance agent.

(2) A firm or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers in this state is separately licensed, or is named in the firm or corporation license, and is qualified as for an individual license as adjuster under subsection (1) above of this section. An additional full license fee shall be paid as to each individual in excess of one (1) so named in the firm or corporation license to exercise its powers.

SECTION 15. 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 16. This act shall be in full force and effect on and after July 1, 2013.

Approved April 3, 2012.

CHAPTER 227
(H.B. No. 653)

AN ACT

RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-217, IDAHO CODE, TO PROVIDE THAT IF THE DATE FOR FILING ANY REPORT, CLAIM, TAX RETURN, STATEMENT OR OTHER DOCUMENT OR MAKING ANY SUCH PAYMENT FALLS UPON A SATURDAY, A SUNDAY, A LEGAL HOLIDAY OR, IN MATTERS ARISING UNDER THE STATE INCOME TAX LAW, A HOLIDAY RECOGNIZED BY THE INTERNAL REVENUE SERVICE, SUCH ACTS SHALL BE CONSIDERED TIMELY IF PERFORMED ON THE NEXT BUSINESS DAY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-217, Idaho Code, be, and the same is hereby amended to read as follows:

63-217. FILING OF MATERIAL BY MAIL OR PRIVATE DELIVERY SERVICES. (1) Any report, claim, return, statement or other document or payment dealing in any way or in any manner whatsoever with taxation which is required or authorized to be filed or made to the state of Idaho, or to any political subdivision thereof, which is:

(a) Transmitted through the United States mail, shall be deemed filed or made and received by the state or political subdivision on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. For purposes of this title, a postage meter cancellation shall not be deemed a post office cancellation mark.

(b) Mailed but not received by the state or political subdivision or where received and the cancellation mark is illegible, erroneous or omitted, shall be deemed filed or made and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement or other document or payment was deposited in the United States mail on or before the date for filing or paying; and in cases of such nonreceipt of any such report, claim, tax return, statement or other document or payment required by law to be filed or made, the sender files with the state or political subdivision a duplicate within fifteen (15) days after written notification is given to the

sender by the state or political subdivision of its nonreceipt of such report, claim, tax return, statement, or other document or payment.

(2) If any such report, claim, tax return, statement or other document or payment is sent by United States mail and either registered or certified, a record authenticated by the United States post office of such registration or certification shall be considered competent evidence that the report, claim, tax return, statement or other document or payment was delivered to the state officer or state agency or officer or agency of the political subdivision to which addressed, and the date of registration or certification shall be deemed the postmarked date.

(3) Any reference in this section to the United States mail shall be treated as including a reference to any delivery service designated by the secretary of the United States department of treasury under section 7502 of the Internal Revenue Code. Any reference in this section to a postmark by the United States postal service shall be treated as including a reference to any date recorded or marked as described in section 7502 of the Internal Revenue Code by any designated delivery service.

(4) If the date for filing any such report, claim, tax return, statement or other document or making any such payment falls upon a Saturday, a Sunday ~~or~~, a legal holiday ~~or~~, in matters arising under chapter 30, title 63, Idaho Code, a holiday recognized by the internal revenue service, such acts shall be considered timely if performed on the next business day.

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 3, 2012.

CHAPTER 228
(H.B. No. 654)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; 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 289, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Division of Veterans Services, the following amounts to be expended for the designated operating expenditures, from the listed funds for the period July 1, 2011, through June 30, 2012:

FOR:		
Operating Expenditures		\$2,000,000
FROM:		
Miscellaneous Revenue Fund		\$1,080,000
Federal Grant Fund		<u>920,000</u>
TOTAL		\$2,000,000

SECTION 2. There is hereby appropriated to the Division of Veterans Services, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,018,500			\$48,900	\$1,067,400
Miscellaneous Revenue					
Fund	11,084,100	\$4,034,500	\$1,777,000		16,895,600
Veterans Home Endowment Income					
Fund		492,600		1,500	494,100
Federal Grant					
Fund	<u>5,217,200</u>	<u>14,290,600</u>	<u>1,331,600</u>	<u>0</u>	<u>20,839,400</u>
TOTAL	\$17,319,800	\$18,817,700	\$3,108,600	\$50,400	\$39,296,500

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred ten and seven-tenths (310.7) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that the Division of Veterans Services, with the cooperation and assistance of the Division of Financial Management, the Division of Medicaid in the Department of Health and Welfare, and the Legislative Services Office, analyze and report on the cause of ongoing excess revenues being generated by the services provided by the Division of Veterans Services. The Division of Veterans Services is also requested to prepare a plan and include such plan to reduce the generation of excess revenues as part of its fiscal year 2014 budget submission. In addition, the Division of Veterans Services shall develop and propose a long-range proposal, subject to the approval of the Governor and appropriation by the Legislature, to maximize the use of existing fund balances for the support and benefit of all veterans as appropriate. The Division of Veterans Services shall update the Division of Financial Management and Legislative Services Office at least quarterly on its progress in plan development, and may be requested to update the Joint Finance-Appropriations Committee during the interim meetings at the request of the Co-Chairmen.

SECTION 5. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4),

Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 229
(H.B. No. 655)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND EXEMPTING CERTAIN APPROPRIATION OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Lands, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$336,500	\$242,300			\$578,800
Department of Lands					
Fund	426,000	296,700	\$133,400		856,100
Indirect Cost Recovery					
Fund	87,800	128,500			216,300
Endowment Administrative					
Fund	<u>2,402,200</u>	<u>2,429,000</u>	<u>345,200</u>		<u>5,176,400</u>
TOTAL	\$3,252,500	\$3,096,500	\$478,600		\$6,827,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General					
Fund	\$730,500	\$64,700	\$24,800		\$820,000
Department of Lands					
Fund	631,800	371,800	52,400		1,056,000
Indirect Cost Recovery					
Fund	82,800	760,700	13,600		857,100
American Reinvestment					
Fund	86,000				86,000
Endowment Administrative					
Fund	9,210,700	7,494,200	348,000		17,052,900
Community Forestry					
Fund		20,000		\$20,000	40,000
Federal Grant					
Fund	<u>441,100</u>	<u>962,700</u>	<u>0</u>	<u>1,306,300</u>	<u>2,710,100</u>
TOTAL	\$11,182,900	\$9,674,100	\$438,800	\$1,326,300	\$22,622,100
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General					
Fund	\$850,200	\$80,500	\$27,200		\$957,900
Department of Lands					
Fund	249,400	1,144,600			1,394,000
Endowment Administrative					
Fund	<u>1,739,900</u>	<u>2,132,200</u>	<u>0</u>		<u>3,872,100</u>
TOTAL	\$2,839,500	\$3,357,300	\$27,200		\$6,224,000
IV. FOREST AND RANGE FIRE PROTECTION:					
FROM:					
General					
Fund	\$964,800	\$269,400		\$667,100	\$1,901,300
Department of Lands					
Fund	2,596,800	714,100	\$397,400	873,000	4,581,300
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
American Reinvestment					
Fund	68,800				68,800
Federal Grant					
Fund	<u>926,500</u>	<u>538,500</u>	<u>0</u>	<u>2,059,100</u>	<u>3,524,100</u>
TOTAL	\$4,686,400	\$1,544,100	\$397,400	\$3,599,200	\$10,227,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SCALING PRACTICES:					
FROM:					
Department of Lands					
Fund	\$181,000	\$46,700	\$9,100		\$236,800
GRAND TOTAL	\$22,142,300	\$17,718,700	\$1,351,100	\$4,925,500	\$46,137,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty and forty-seven hundredths (260.47) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2013, the Department of Lands is hereby exempted from the provisions of Section 67-3511 (1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated for the Forest and Range Fire Protection Program for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 3, 2012.

CHAPTER 230
(H.B. No. 657)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF INDEPENDENT COUNCILS, INDIRECT SUPPORT SERVICES, AND PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; REQUIRING MONTHLY FORECAST REPORTING FOR THE MEDICAL ASSISTANCE SERVICES AND THE INDIRECT SUPPORT SERVICES DIVISIONS; DIRECTING REPORTING FOR THE MEDICAID PROGRAM INTEGRITY UNIT COLLECTIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDEPENDENT COUNCILS:					
A. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$88,600	\$11,800			\$100,400
Cooperative Welfare (Dedicated)					
Fund		15,000			15,000
Cooperative Welfare (Federal)					
Fund	<u>292,300</u>	<u>196,600</u>		<u>\$31,600</u>	<u>520,500</u>
TOTAL	\$380,900	\$223,400		\$31,600	\$635,900
B. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,800	\$1,300			\$13,100
Domestic Violence Project					
Fund	155,200	163,200		\$171,800	490,200
Cooperative Welfare (Dedicated)					
Fund		40,000			40,000
Cooperative Welfare (Federal)					
Fund	<u>101,000</u>	<u>66,900</u>		<u>3,415,400</u>	<u>3,583,300</u>
TOTAL	\$268,000	\$271,400		\$3,587,200	\$4,126,600
DIVISION					
TOTAL	\$648,900	\$494,800		\$3,618,800	\$4,762,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. INDIRECT SUPPORT SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$9,157,100	\$6,072,200	\$260,000		\$15,489,300
Cooperative Welfare (Dedicated)					
Fund	963,400	1,025,400	23,000		2,011,800
Cooperative Welfare (Federal)					
Fund	<u>10,175,400</u>	<u>8,203,200</u>	<u>2,340,000</u>		<u>20,718,600</u>
TOTAL	\$20,295,900	\$15,300,800	\$2,623,000		\$38,219,700
III. PUBLIC HEALTH SERVICES:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,283,100	\$1,546,200		\$1,084,600	\$3,913,900
Idaho Immunization Dedicated Vaccine					
Fund		7,200,000			7,200,000
Cancer Control					
Fund	49,200	228,200		123,400	400,800
Central Tumor Registry					
Fund				182,700	182,700
Cooperative Welfare (Dedicated)					
Fund	1,564,900	1,861,700		10,186,700	13,613,300
Cooperative Welfare (Federal)					
Fund	<u>5,513,700</u>	<u>7,755,700</u>		<u>42,997,900</u>	<u>56,267,300</u>
TOTAL	\$8,410,900	\$18,591,800		\$54,575,300	\$81,578,000
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services					
Fund	\$1,499,900	\$909,100		\$220,000	\$2,629,000
Emergency Medical Services III					
Fund				1,400,000	1,400,000
Cooperative Welfare (Dedicated)					
Fund	237,400	341,300			578,700
Cooperative Welfare (Federal)					
Fund	<u>296,600</u>	<u>450,000</u>		<u>175,000</u>	<u>921,600</u>
TOTAL	\$2,033,900	\$1,700,400		\$1,795,000	\$5,529,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,407,400	\$416,300	\$31,600		\$1,855,300
Cooperative Welfare (Dedicated)					
Fund	430,200	199,300			629,500
Cooperative Welfare (Federal)					
Fund	<u>891,000</u>	<u>949,000</u>	<u>0</u>		<u>1,840,000</u>
TOTAL	\$2,728,600	\$1,564,600	\$31,600		\$4,324,800
DIVISION					
TOTAL	\$13,173,400	\$21,856,800	\$31,600	\$56,370,300	\$91,432,100
GRAND TOTAL	\$34,118,200	\$37,652,400	\$2,654,600	\$59,989,100	\$134,414,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Independent Councils	10
Indirect Support Services	270.05
Public Health Services	213.5

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2013.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. ACTUAL AND FORECAST DETAIL REPORTING. The Department of Health and Welfare Medical Assistance Services Division and Indirect Support Services Division shall deliver on a monthly basis to the Legislative Services Office and Division of Financial Management a report that compares the Medicaid forecast used to set the budget to actual expenditures and remaining forecasted expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 7. MEDICAID PROGRAM INTEGRITY COLLECTIONS. It is the intent of the Legislature that the Indirect Support Services Division provide quarterly reports to the Legislative Services Office and Division of Financial Management comparing the total costs from all funding sources used for the Medicaid Program Integrity Unit and the collections related to those efforts. The report will track the new staff and their assessment and collections separately.

SECTION 8. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 231
(H.B. No. 658)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE;
AMENDING SECTION 4, CHAPTER 298, LAWS OF 2011; AND DECLARING AN EMER-
GENCY.

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

SECTION 1. That Section 4, Chapter 298, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 4. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
I. CHILD WELFARE:					
FROM:					
Cooperative Welfare (General)					
Fund	\$6,551,400	\$1,573,200			\$8,124,600
Cooperative Welfare (Dedicated)					
Fund	69,300	20,000			89,300
Cooperative Welfare (Federal)					
Fund	<u>14,901,700</u>	<u>4,990,100</u>			<u>19,891,800</u>
		<u>5,190,100</u>			<u>20,091,800</u>
TOTAL	\$21,522,400	\$6,783,300			\$28,305,700
		<u>\$6,783,300</u>			<u>\$28,305,700</u>

II. FOSTER & ASSISTANCE PAYMENTS:

FROM:

Cooperative Welfare (General)					
Fund				\$11,383,700	\$11,383,700
Cooperative Welfare (Dedicated)					
Fund				955,400	955,400
Cooperative Welfare (Federal)					
Fund				12,866,200	12,866,200
				<u>13,666,200</u>	<u>13,666,200</u>
TOTAL				\$25,205,300	\$25,205,300
				<u>\$26,005,300</u>	<u>\$26,005,300</u>

III. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:

FROM:

Cooperative Welfare (General)					
Fund	\$4,793,100	\$1,116,100		\$2,311,000	\$8,220,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR <u>CAPITAL</u> <u>OUTLAY</u>	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Dedicated)					
Fund	801,500	46,300		1,909,800	2,757,600
Cooperative Welfare (Federal)					
Fund	<u>4,778,800</u>	<u>1,049,700</u>		<u>945,900</u>	<u>6,774,400</u>
TOTAL	\$10,373,400	\$2,212,100		\$5,166,700	\$17,752,200

IV. IDAHO STATE SCHOOL AND HOSPITAL:

FROM:

Cooperative Welfare (General)					
Fund	\$3,083,000	\$368,500		\$80,600	\$3,532,100
Medical Assistance					
Fund		3,500			3,500
Cooperative Welfare (Dedicated)					
Fund	612,500	137,800		10,600	760,900
Cooperative Welfare (Federal)					
Fund	<u>12,773,700</u>	<u>2,347,000</u>		<u>189,900</u>	<u>15,310,600</u>
TOTAL	\$16,469,200	\$2,856,800		\$281,100	\$19,607,100

V. DEVELOPMENTAL DISABILITIES COUNCIL:

FROM:

Cooperative Welfare (General)					
Fund	\$85,400	\$11,800			\$97,200
Cooperative Welfare (Dedicated)					
Fund		15,000			15,000
Cooperative Welfare (Federal)					
Fund	<u>289,100</u>	<u>196,600</u>		<u>\$31,600</u>	<u>517,300</u>
TOTAL	\$374,500	\$223,400		\$31,600	\$629,500

VI. DOMESTIC VIOLENCE COUNCIL:

FROM:

Cooperative Welfare (General)					
Fund	\$11,200	\$1,300			\$12,500
Domestic Violence Project					
Fund	149,000	163,200		\$171,800	484,000
Cooperative Welfare (Dedicated)					
Fund		40,000			40,000
Cooperative Welfare (Federal)					
Fund	<u>96,700</u>	<u>66,900</u>		<u>3,415,400</u>	<u>3,579,000</u>
TOTAL	\$256,900	\$271,400		\$3,587,200	\$4,115,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR <u>CAPITAL</u> <u>OUTLAY</u>	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. INDIRECT SUPPORT SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$8,787,600	\$5,955,700			\$14,743,300
		<u>\$6,184,200</u>	<u>\$150,000</u>		<u>\$15,121,800</u>
Cooperative Welfare (Dedicated)					
Fund	928,500	1,025,400			1,953,900
		<u>2,775,400</u>			<u>3,703,900</u>
Cooperative Welfare (Federal)					
Fund	<u>9,810,200</u>	6,969,300			16,779,500
		<u>8,397,800</u>	<u>1,350,000</u>		<u>19,558,000</u>
TOTAL	\$19,526,300	\$13,950,400			\$33,476,700
		<u>\$17,357,400</u>	<u>\$1,500,000</u>		<u>\$38,383,700</u>
VIII. MEDICAID ADMINISTRATION & MEDICAL MANAGEMENT:					
FROM:					
Cooperative Welfare (General)					
Fund	\$6,122,900	\$7,554,800		\$1,219,200	\$14,896,900
		<u>\$8,985,300</u>			<u>\$16,327,400</u>
Idaho Health Insurance Access Card					
Fund		152,000			152,000
Cooperative Welfare (Dedicated)					
Fund	637,200	9,096,000			9,733,200
Cooperative Welfare (Federal)					
Fund	<u>11,006,500</u>	19,416,900		<u>1,638,600</u>	32,062,000
		<u>24,368,400</u>			<u>37,013,500</u>
TOTAL	\$17,766,600	\$36,219,700		\$2,857,800	\$56,844,100
		<u>\$42,601,700</u>			<u>\$63,226,100</u>
IX. COORDINATED MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$136,341,600	\$136,341,600
Hospital Assessment					
Fund				25,077,900	25,077,900
Cooperative Welfare (Dedicated)					
Fund				16,599,200	16,599,200
Cooperative Welfare (Federal)					
Fund				<u>370,883,100</u>	<u>370,883,100</u>
TOTAL				\$548,901,800	\$548,901,800

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
X. ENHANCED MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$192,155,900	\$192,155,900
				<u>\$192,557,800</u>	<u>\$192,557,800</u>
Idaho Health Insurance Access Card					
Fund				1,551,400	1,551,400
Medical Assistance					
Fund				2,500	2,500
Hospital Assessment					
Fund				9,880,600	9,880,600
Cooperative Welfare (Dedicated)					
Fund				47,235,400	47,235,400
Cooperative Welfare (Federal)					
Fund				463,600,100	463,600,100
				<u>464,457,700</u>	<u>464,457,700</u>
TOTAL				\$714,425,900	\$714,425,900
				<u>\$715,685,400</u>	<u>\$715,685,400</u>
XI. BASIC MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$92,614,600	\$92,614,600
				<u>\$92,772,700</u>	<u>\$92,772,700</u>
Idaho Health Insurance Access Card					
Fund				4,077,100	4,077,100
Hospital Assessment					
Fund				20,873,000	20,873,000
Cooperative Welfare (Dedicated)					
Fund				43,549,600	43,549,600
Cooperative Welfare (Federal)					
Fund				325,902,500	325,902,500
				<u>326,534,900</u>	<u>326,534,900</u>
TOTAL				\$487,016,800	\$487,016,800
				<u>\$487,807,300</u>	<u>\$487,807,300</u>
XII. CHILDREN'S MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,070,500	\$633,600		\$3,304,000	\$8,008,100
		<u>\$828,300</u>			<u>\$8,202,800</u>
Cooperative Welfare (Dedicated)					
Fund				164,500	164,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR <u>CAPITAL</u> <u>OUTLAY</u>	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)					
Fund	<u>1,415,600</u>	<u>1,358,000</u>		<u>1,117,600</u>	<u>3,891,200</u>
TOTAL	\$5,486,100	\$1,991,600		\$4,586,100	\$12,063,800
		<u>\$2,186,300</u>			<u>\$12,258,500</u>
XIII. ADULT MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,141,800	\$1,445,400		\$627,500	\$13,214,700
Cooperative Welfare (Dedicated)					
Fund	484,300			350,000	834,300
Drug Court, Mental Health and Family Court Services					
Fund	155,100	98,000			253,100
Cooperative Welfare (Federal)					
Fund	<u>2,666,800</u>	<u>1,154,700</u>		<u>353,700</u>	<u>4,175,200</u>
TOTAL	\$14,448,000	\$2,698,100		\$1,331,200	\$18,477,300
XIV. COMMUNITY HOSPITALIZATION:					
FROM:					
Cooperative Welfare (General)					
Fund				\$2,790,000	\$2,790,000
XV. STATE HOSPITAL NORTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$5,766,000	\$475,900		\$17,700	\$6,259,600
Cooperative Welfare (Dedicated)					
Fund	131,000				131,000
State Hospital North Endowment Income					
Fund	<u>219,300</u>	<u>526,800</u>		<u>44,500</u>	<u>790,600</u>
TOTAL	\$6,116,300	\$1,002,700		\$62,200	\$7,181,200
XVI. STATE HOSPITAL SOUTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$8,211,100	\$689,900		\$208,700	\$9,109,700
Cooperative Welfare (Dedicated)					
Fund	2,356,800	679,200		900	3,036,900
Mental Hospital Endowment Income					
Fund	1,840,500	461,100			2,301,600
Cooperative Welfare (Federal)					
Fund	<u>3,125,900</u>	<u>1,043,800</u>		<u>24,200</u>	<u>4,193,900</u>
TOTAL	\$15,534,300	\$2,874,000		\$233,800	\$18,642,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR <u>CAPITAL</u> <u>OUTLAY</u>	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XVII. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,312,400	\$1,548,000		\$1,084,600	\$3,945,000
Idaho Immunization Dedicated Vaccine					
Fund		8,200,000			8,200,000
		<u>15,500,000</u>			<u>15,500,000</u>
Cancer Control					
Fund	49,400	228,200		123,400	401,000
Central Tumor Registry					
Fund				182,700	182,700
Cooperative Welfare (Dedicated)					
Fund	1,435,300	1,861,700		10,186,700	13,483,700
Cooperative Welfare (Federal)					
Fund	<u>5,325,200</u>	<u>7,757,300</u>		<u>42,997,900</u>	<u>56,080,400</u>
TOTAL	\$8,122,300	\$19,595,200		\$54,575,300	\$82,292,800
		<u>\$26,895,200</u>			<u>\$89,592,800</u>
XVIII. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services					
Fund	\$1,437,500	\$909,100		\$220,000	\$2,566,600
Emergency Medical Services III					
Fund				1,400,000	1,400,000
Cooperative Welfare (Dedicated)					
Fund	229,200	341,300			570,500
Cooperative Welfare (Federal)					
Fund	<u>289,000</u>	<u>450,000</u>		<u>175,000</u>	<u>914,000</u>
TOTAL	\$1,955,700	\$1,700,400		\$1,795,000	\$5,451,100
XIX. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,267,100	\$417,100			\$1,684,200
Cooperative Welfare (Dedicated)					
Fund	409,300	199,300			608,600
Cooperative Welfare (Federal)					
Fund	<u>853,900</u>	<u>949,000</u>			<u>1,802,900</u>
TOTAL	\$2,530,300	\$1,565,400			\$4,095,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR <u>CAPITAL</u> <u>OUTLAY</u>	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XX. SERVICE INTEGRATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$750,000	\$125,300			\$875,300
Cooperative Welfare (Dedicated)					
Fund	19,500			\$50,000	69,500
Cooperative Welfare (Federal)					
Fund	<u>1,061,400</u>	<u>166,000</u>		<u>2,200,000</u>	<u>3,427,400</u>
				<u>2,900,000</u>	<u>4,127,400</u>
TOTAL	\$1,830,900	\$291,300		\$2,250,000	\$4,372,200
				<u>\$2,950,000</u>	<u>\$5,072,200</u>
XXI. SUBSTANCE ABUSE TREATMENT & PREVENTION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$472,800	\$573,500		\$1,455,400	\$2,501,700
Prevention of Minors' Access to Tobacco					
Fund	6,300	43,800			50,100
Cooperative Welfare (Dedicated)					
Fund	44,000	438,300			482,300
Liquor Control					
Fund				650,000	650,000
Cooperative Welfare (Federal)					
Fund	<u>592,300</u>	<u>3,836,300</u>		<u>8,698,600</u>	<u>13,127,200</u>
TOTAL	\$1,115,400	\$4,891,900		\$10,804,000	\$16,811,300
XXII. SELF-RELIANCE OPERATIONS:					
FROM:					
Cooperative Welfare (General)					
Fund	\$12,048,800	\$4,027,800			\$16,076,600
	<u>\$12,981,500</u>	<u>\$5,190,900</u>			<u>\$18,172,400</u>
Cooperative Welfare (Dedicated)					
Fund		2,597,400			2,597,400
Cooperative Welfare (Federal)					
Fund	19,551,500	13,109,700			32,661,200
	<u>18,618,800</u>	<u>15,946,600</u>			<u>34,565,400</u>
TOTAL	\$31,600,300	\$19,734,900			\$51,335,200
		<u>\$23,734,900</u>			<u>\$55,335,200</u>

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
XXIII. BENEFIT PAYMENTS:					
FROM:					
Cooperative Welfare (General)					
Fund				\$17,976,500	\$17,976,500
Cooperative Welfare (Dedicated)					
Fund				23,500	23,500
Cooperative Welfare (Federal)					
Fund				<u>57,967,400</u>	<u>57,967,400</u>
				<u>63,794,800</u>	<u>63,794,800</u>
TOTAL				<u>\$75,967,400</u>	<u>\$75,967,400</u>
				<u>\$81,794,800</u>	<u>\$81,794,800</u>
XXIV. MEDICALLY INDIGENT ADMINISTRATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$113,700	\$15,100			\$128,800
GRAND TOTAL	\$175,142,600	<u>\$118,677,700</u>		<u>\$1,941,869,200</u>	<u>\$2,235,689,500</u>
		<u>\$140,161,400</u>	<u>\$1,500,000</u>	<u>\$1,951,246,600</u>	<u>\$2,268,050,600</u>

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

Approved April 3, 2012.

CHAPTER 232
(H.B. No. 659)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR COLLEGE AND UNIVERSITIES AND THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2013; PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2013; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; PROVIDING LEGISLATIVE INTENT FOR SYSTEMWIDE NEEDS; PROVIDING LEGISLATIVE INTENT FOR UNIVERSITY RESEARCH; PROVIDING LEGISLATIVE INTENT FOR REPORTING; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for college and universities, and the Office of the State Board of Education the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOISE STATE UNIVERSITY:					
FROM:					
General					
Fund	\$64,011,600	\$6,335,200	\$3,757,800		\$74,104,600
Unrestricted					
Fund	<u>55,095,000</u>	<u>15,904,700</u>	<u>1,385,000</u>		<u>72,384,700</u>
TOTAL	\$119,106,600	\$22,239,900	\$5,142,800		\$146,489,300
II. IDAHO STATE UNIVERSITY:					
FROM:					
General					
Fund	\$57,919,100	\$1,603,600	\$2,277,000		\$61,799,700
Charitable Institutions Endowment Income					
Fund	790,600				790,600
Normal School Endowment Income					
Fund	1,335,000				1,335,000
Unrestricted					
Fund	<u>30,137,900</u>	<u>21,758,000</u>	<u>3,741,700</u>		<u>55,637,600</u>
TOTAL	\$90,182,600	\$23,361,600	\$6,018,700		\$119,562,900
III. UNIVERSITY OF IDAHO:					
FROM:					
General					
Fund	\$65,319,500	\$5,944,600	\$3,472,100		\$74,736,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural College Endowment Income					
Fund	654,000	45,500	217,300		916,800
Scientific School Endowment Income					
Fund	2,235,200		762,400		2,997,600
University Endowment Income					
Fund	1,790,700	166,700	595,000		2,552,400
Unrestricted					
Fund	<u>35,277,700</u>	<u>33,073,100</u>	<u>0</u>		<u>68,350,800</u>
TOTAL	\$105,277,100	\$39,229,900	\$5,046,800		\$149,553,800
IV. LEWIS-CLARK STATE COLLEGE:					
FROM:					
General					
Fund	\$11,276,200	\$1,084,000	\$431,700		\$12,791,900
Normal School Endowment Income					
Fund		1,335,000			1,335,000
Unrestricted					
Fund	<u>9,302,600</u>	<u>2,808,600</u>	<u>0</u>		<u>12,111,200</u>
TOTAL	\$20,578,800	\$5,227,600	\$431,700		\$26,238,100
V. SYSTEMWIDE:					
FROM:					
General					
Fund	\$1,400,000	\$1,160,100	\$525,000	\$1,433,000	\$4,518,100
GRAND TOTAL	\$336,545,100	\$91,219,100	\$17,165,000	\$1,433,000	\$446,362,200

SECTION 2. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for college and universities any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent

performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 1, Subsection V. of this act, the following amounts may be used as follows: (1) An amount not to exceed \$140,000 may be used by the Office of the State Board of Education for systemwide needs; (2) An amount of approximately \$1,435,500 may be used for the mission and goals of the Higher Education Research Council as outlined in State Board of Education policy III.W., which includes awards for infrastructure, matching grants, and competitive grants through the Idaho Incubation Fund program; and (3) An amount not to exceed \$942,600 may be used by the State Board of Education for instructional projects designed to foster innovative learning approaches using technology, to promote accountability and information transfer throughout the higher education system including longitudinal student-level data and program/course transferability, and to promote the Idaho Electronic Campus.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 1, Subsection V. of this act, up to \$2,000,000 may be awarded for competitive state university research under the direction of the Higher Education Research Council to support the goals of the Idaho Global Entrepreneurial Mission (IGEM) University Research Initiative. These funds are envisioned as seed funding for strengthening Idaho's future by strategically investing in the development of expertise, products, and services that result in state economic growth. Selected project proposals are expected to exhibit high potential for near term technology transfer to the private sector. The State Board of Education shall establish guidelines for submission, review, approval, and project reporting requirements. Carryover of General Funds for the program described herein is allowed.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that the State Board of Education shall report to the Joint Finance-Appropriations Committee no later than February 1, 2013, regarding the allocation and use of funds through the Systemwide Program.

SECTION 7. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the State Board of Education and the Board of Regents of the University of Idaho for college and universities are hereby exempted from the provisions of Section 67-3511 (1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 3, 2012.

CHAPTER 233
(H.B. No. 661)

AN ACT

RELATING TO NEW EMPLOYEES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029E, IDAHO CODE, TO PROVIDE DEFINITIONS AND CONSTRUCTION OF TERMS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029EE, IDAHO CODE, TO PROVIDE A SPECIAL INCOME TAX CREDIT FOR NEW EMPLOYEES AND TO PROVIDE PROCEDURES; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029E, Idaho Code, and to read as follows:

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

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

(i) A regular full-time basis; or

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

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

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

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year that qualified under paragraph (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(2) "Revenue-producing enterprise" shall be as defined in section 63-3022H, Idaho Code.

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

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029EE, Idaho Code, and to read as follows:

63-3029EE. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) Any taxpayer shall be allowed a credit, in an amount determined under subsection (2) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the taxpayer's employment of new employees prior to April 14, 2011, as defined under section 63-3029E(1), Idaho Code, increases above the taxpayer's average employment for either: (a) the prior taxable year, or (b) the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person.

(2) (a) The credit authorized in subsection (1) of this section shall be:

(i) Five hundred dollars (\$500) per new employee described in subsection (2) (d) of this section; or

(ii) One thousand dollars (\$1,000) per new employee described in subsection (2) (c) of this section, but not both.

(b) The total credit allowed by this section shall not exceed three and one-quarter percent (3.25%) of net income from the taxpayer's corporate, proprietorship, partnership, small business corporation or limited liability company trade or business in which the employment occurred. Additionally, the total amount of this and all other credits allowed under this chapter except for the credits allowed under section 63-3029, Idaho Code, shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(c) The one thousand dollar (\$1,000) credit shall apply to an employee who, in the calendar year ending during the taxable year for which the credit is claimed, received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked and who, during such calendar year, was eligible to receive employer provided coverage under an accident or health plan described in section 105 of the Internal Revenue Code.

(d) The five hundred dollar (\$500) credit shall apply to an employee not described in subsection (2) (c) of this section and who is employed in a revenue-producing enterprise as defined in section 63-3029E, Idaho Code.

(3) If the sum of the credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (2) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be a credit carryover to the three (3) succeeding taxable years. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the employment level for which the credit was granted is still maintained.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2011, and shall be null, void and of no force and effect on and after January 1, 2017.

CHAPTER 234
(H.B. No. 662)

AN ACT

RELATING TO THE YOUTH CHALLENGE PROGRAM; AMENDING SECTION 46-805, IDAHO CODE, TO PROVIDE FOR FEDERAL FUNDS AND STATE FUNDING, TO REMOVE DUPLICATIVE LANGUAGE AND TO PROVIDE THAT THE SCHOOL DISTRICT WHERE THE YOUTH CHALLENGE PROGRAM IS LOCATED MAY TAKE STEPS TO HAVE THE YOUTH CHALLENGE PROGRAM BE CONSIDERED AND DESIGNATED AS AN ALTERNATIVE SECONDARY SCHOOL; AND AMENDING SECTION 2, CHAPTER 322, LAWS OF 2011, TO EXTEND A SUNSET DATE.

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

SECTION 1. That Section 46-805, Idaho Code, be, and the same is hereby amended to read as follows:

46-805. YOUTH CHALLENGE PROGRAM.

(1) (a) There is hereby established the Idaho youth challenge program, a multi-phased youth intervention program. The program will provide, among other things, a structured, disciplined residential phase of at least twenty-two (22) weeks focusing on education and practical life skills and a post-residential phase of at least twelve (12) months involving skilled and trained mentors supporting graduates and engaged in positive and durable placement of graduates. The youth challenge program shall be focused on assisting participants in achieving a high school diploma or obtaining a general equivalency diploma (GED) and helping to ensure that participants become productive members of society.

(b) The program shall be eligible to receive and expend any moneys provided to the program including, but not limited to, private contributions, federal funds and state alternative secondary school funding. In the event that moneys for any fiscal year are inadequate to fund the youth challenge program, the program shall be discontinued. The decision to discontinue the program due to inadequate funding shall be made by the legislature and the governor in a joint letter provided to the adjutant general and signed by the governor, the president pro tempore of the senate and the speaker of the house of representatives.

(2) The youth challenge program shall be administered by the state adjutant general in conjunction with:

(a) The board of trustees of an appropriate school district of this state; or

(b) A governing board, the members of which shall be appointed by the governor. The size of such governing board and qualifications and terms of board members shall be provided for in rule authorized by this section.

(3) The program and all program participants shall be governed by all applicable laws, regulations and guidelines including, but not limited to, 32 U.S.C. section 509.

(4) (a) In order to be eligible to participate in the program, applicants shall meet the criteria established by the adjutant general in administrative rule.

(b) Applicants shall be selected for the program by the youth challenge program board of admissions. Such board shall be appointed by the adjutant general. Qualifications for board membership, length of board terms, size of the board and other necessary provisions shall be established by the adjutant general in administrative rule.

(5) The adjutant general is authorized to enter into contracts and to promulgate rules to implement the provisions of this section.

(6) ~~The provisions of this section shall be null and void and of no force and effect on and after July 1, 2014~~ school district where the youth challenge program is located may take steps to have the youth challenge program be considered and designated as an alternative secondary school.

SECTION 2. That Section 2, Chapter 322, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. The provisions of this act shall be null, void and of no force and effect on and after July 1, 20145.

Approved April 3, 2012.

CHAPTER 235
(H.B. No. 664)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; PROVIDING LEGISLATIVE INTENT WITH REGARD TO THE TAX COMPLIANCE INITIATIVE; 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 272, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the State Tax Commission, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. GENERAL SERVICES:			
FROM:			
Multistate Tax Compact			
Fund		\$250,000	\$250,000
Administration and Accounting			
Fund	\$56,000	4,500	60,500
TOTAL	\$56,000	\$254,500	\$310,500
II. AUDIT AND COLLECTIONS:			
FROM:			
Federal Grant			
Fund	\$71,000	\$25,000	\$96,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
III. REVENUE OPERATIONS:			
FROM:			
Administration and Accounting			
Fund	\$1,000	\$3,900	\$4,900
Federal Grant			
Fund	<u>12,000</u>	<u>0</u>	<u>12,000</u>
TOTAL	\$13,000	\$3,900	\$16,900
GRAND TOTAL			
	\$140,000	\$283,400	\$423,400

SECTION 2. There is hereby appropriated to the State Tax Commission, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General				
Fund	\$4,207,900	\$2,585,500		\$6,793,400
Multistate Tax Compact				
Fund		323,600	\$41,300	364,900
Administration and Accounting				
Fund	6,900	102,400	2,500	111,800
Administration Services for Transportation				
Fund	445,200	471,200	60,000	976,400
Seminars and Publications				
Fund	<u>0</u>	<u>9,100</u>	<u>0</u>	<u>9,100</u>
TOTAL	\$4,660,000	\$3,491,800	\$103,800	\$8,255,600
II. AUDIT AND COLLECTIONS:				
FROM:				
General				
Fund	\$12,304,200	\$1,939,500		\$14,243,700
Multistate Tax Compact				
Fund	1,294,800	475,500		1,770,300
Administration and Accounting				
Fund	23,000	72,500		95,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Administration Services for Transportation				
Fund	1,609,600	345,500		1,955,100
Federal Grant				
Fund	<u>71,000</u>	<u>25,000</u>		<u>96,000</u>
TOTAL	\$15,302,600	\$2,858,000		\$18,160,600
 III. REVENUE OPERATIONS:				
FROM:				
General				
Fund	\$3,297,600	\$1,919,200	\$61,800	\$5,278,600
Multistate Tax Compact				
Fund		31,500	6,000	37,500
Administration and Accounting				
Fund	103,400	79,100		182,500
Administration Services for Transportation				
Fund	535,100	318,700	10,900	864,700
Seminars and Publications				
Fund		14,400		14,400
Federal Grant				
Fund	<u>12,000</u>	<u>0</u>	<u>0</u>	<u>12,000</u>
TOTAL	\$3,948,100	\$2,362,900	\$78,700	\$6,389,700
 IV. PROPERTY TAX:				
FROM:				
General				
Fund	\$2,548,100	\$371,300		\$2,919,400
Seminars and Publications				
Fund	<u>0</u>	<u>131,000</u>	<u>\$8,800</u>	<u>139,800</u>
TOTAL	\$2,548,100	\$502,300	\$8,800	\$3,059,200
 GRAND TOTAL	 \$26,458,800	 \$9,215,000	 \$191,300	 \$35,865,100

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred sixty-one (461) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appro-

priations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that the State Tax Commission provide quarterly reports to the Governor and the Joint Finance-Appropriations Committee comparing the total costs from all funding sources used for all phases of the "Tax Gap" compliance efforts and the year-to-date and historical collections related to those efforts. The State Tax Commission shall present an update of the Tax Gap study to the Joint Finance-Appropriations Committee at its fall meeting. The update shall include, but is not limited to, a historical analysis of how many positions were provided by the Legislature for Governor's initiatives, what were those positions' original responsibilities, what are their current responsibilities, and how will they continue to address compliance issues.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 236
(H.B. No. 665)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Board of Tax Appeals from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$409,400
Operating Expenditures	<u>68,500</u>
TOTAL	\$477,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The

Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 237
(H.B. No. 668)

AN ACT

APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Lava Hot Springs Foundation the following amounts to be expended for the designated expense classes, from the Lava Hot Springs Foundation Fund for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$940,700
Operating Expenditures	740,000
Capital Outlay	<u>1,509,600</u>
TOTAL	\$3,190,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than thirteen and eight-tenths (13.8) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 238
(H.B. No. 669)

AN ACT

APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Soil and Water Conservation Commission, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$993,700	\$209,500	\$1,103,200	\$2,306,400
Administration and Accounting Services				
Fund		20,000		20,000
Resource Conservation and Rangeland Development				
Fund	144,100	146,000		290,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Clean Water Revolving Loan (SCC)				
Fund		30,000		30,000
Federal Grant				
Fund	<u>0</u>	<u>60,000</u>	<u>0</u>	<u>60,000</u>
TOTAL	\$1,137,800	\$465,500	\$1,103,200	\$2,706,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than sixteen (16) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 239
(H.B. No. 674)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission				
Fund	\$3,564,300	\$1,317,200	\$35,300	\$4,916,800
American Reinvestment				
Fund	149,400	71,000		220,400
Federal Grant				
Fund	<u>89,700</u>	<u>29,000</u>	<u>0</u>	<u>118,700</u>
TOTAL	\$3,803,400	\$1,417,200	\$35,300	\$5,255,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs

the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 240
(H.B. No. 675)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Industrial Commission, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration					
Fund	\$2,986,600	\$1,048,900	\$54,100	\$1,103,100	\$5,192,700
Peace Officer and Detention Officer Temporary Disability					
Fund	3,900	3,800		160,000	167,700
Miscellaneous Revenue					
Fund		35,500			35,500
Federal Grant					
Fund	<u>3,700</u>	<u>1,400</u>	<u>0</u>	<u>0</u>	<u>5,100</u>
TOTAL	\$2,994,200	\$1,089,600	\$54,100	\$1,263,100	\$5,401,000
II. REHABILITATION:					
FROM:					
Industrial Administration					
Fund	\$2,929,000	\$632,100	\$8,300		\$3,569,400
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation					
Fund	\$722,000	\$233,800	\$42,300	\$2,000,000	\$2,998,100
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>800,000</u>	<u>800,000</u>
TOTAL	\$722,000	\$233,800	\$42,300	\$2,800,000	\$3,798,100

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	

IV. ADJUDICATION:

FROM:

Industrial Administration

Fund	\$1,752,500	\$562,400	\$11,300		\$2,326,200
GRAND TOTAL	\$8,397,700	\$2,517,900	\$116,000	\$4,063,100	\$15,094,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-seven and twenty-five hundredths (137.25) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 241
(H.B. No. 676)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Idaho State Police, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board					
Fund	\$2,112,400	\$387,400	\$84,500		\$2,584,300
II. POLICE, DIVISION OF IDAHO STATE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General					
Fund	\$1,699,100	\$353,100			\$2,052,200
Idaho Law Enforcement					
Fund	109,800				109,800
Idaho Law Enforcement (Project Choice)					
Fund	161,800	2,700			164,500
Peace Officers					
Fund	800				800
Miscellaneous Revenue					
Fund		56,400			56,400
Federal Grant					
Fund	<u>74,800</u>	<u>18,100</u>			<u>92,900</u>
TOTAL	\$2,046,300	\$430,300			\$2,476,600
B. EXECUTIVE PROTECTION:					
FROM:					
General					
Fund	\$323,500	\$63,300			\$386,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Idaho Law Enforcement (Project Choice)					
Fund	50,100	600			50,700
Miscellaneous Revenue					
Fund	<u>80,100</u>	<u>12,800</u>			<u>92,900</u>
TOTAL	\$453,700	\$76,700			\$530,400

C. INVESTIGATIONS:

FROM:

General

Fund	\$4,985,000	\$664,000			\$5,649,000
Idaho Law Enforcement (Project Choice)					
Fund	635,400	8,200			643,600
Drug & DWUI Enforcement Donation					
Fund	200,000	399,900			599,900
Federal Grant					
Fund	<u>188,800</u>	<u>773,500</u>	<u>\$66,000</u>	<u>\$201,600</u>	<u>1,229,900</u>
TOTAL	\$6,009,200	\$1,845,600	\$66,000	\$201,600	\$8,122,400

D. PATROL:

FROM:

General

Fund	\$1,710,300	\$1,374,900	\$1,054,800		\$4,140,000
Idaho Law Enforcement					
Fund	14,207,900	2,407,100	192,400		16,807,400
Idaho Law Enforcement (Project Choice)					
Fund	3,578,600	36,900			3,615,500
Hazardous Materials/Waste Enforcement					
Fund	374,200	67,700		\$69,100	511,000
American Reinvestment					
Fund	416,300	138,300		2,396,400	2,951,000
Miscellaneous Revenue					
Fund	188,500	29,000			217,500
Federal Grant					
Fund	<u>2,599,300</u>	<u>1,235,500</u>	<u>226,000</u>	<u>2,707,600</u>	<u>6,768,400</u>
TOTAL	\$23,075,100	\$5,289,400	\$1,473,200	\$5,173,100	\$35,010,800

E. LAW ENFORCEMENT PROGRAMS:

FROM:

General

Fund	\$307,700	\$262,900			\$570,600
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Idaho Law Enforcement (Project Choice)					
Fund	44,500	700			45,200
Miscellaneous Revenue					
Fund		12,500			12,500
Federal Grant					
Fund	<u>50,600</u>	<u>30,600</u>			<u>81,200</u>
TOTAL	\$402,800	\$306,700			\$709,500
F. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$1,251,100	\$575,400			\$1,826,500
Idaho Law Enforcement					
Fund	94,600				94,600
Idaho Law Enforcement (Project Choice)					
Fund	196,300	4,800			201,100
Idaho Law Enforcement Telecommunications					
Fund	422,200	678,200			1,100,400
Miscellaneous Revenue					
Fund	910,300	1,255,900	\$25,000		2,191,200
Federal Grant					
Fund	<u>0</u>	<u>35,800</u>	<u>0</u>	<u>\$1,201,000</u>	<u>1,236,800</u>
TOTAL	\$2,874,500	\$2,550,100	\$25,000	\$1,201,000	\$6,650,600
G. FORENSIC SERVICES:					
FROM:					
General					
Fund	\$2,512,000	\$479,500			\$2,991,500
Idaho Law Enforcement (Project Choice)					
Fund	243,700	3,800			247,500
Drug & DWUI Enforcement Donation					
Fund		296,500			296,500
Miscellaneous Revenue					
Fund	72,500	130,200			202,700
Federal Grant					
Fund	<u>0</u>	<u>270,200</u>			<u>270,200</u>
TOTAL	\$2,828,200	\$1,180,200			\$4,008,400
DIVISION					
TOTAL	\$37,689,800	\$11,679,000	\$1,564,200	\$6,575,700	\$57,508,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. POST ACADEMY:					
FROM:					
Idaho Law Enforcement (Project Choice)					
Fund	\$121,200	\$2,500			\$123,700
Peace Officers					
Fund	1,760,100	1,890,600	\$171,200	\$95,400	3,917,300
Miscellaneous Revenue					
Fund		29,000			29,000
Federal Grant					
Fund	<u>35,000</u>	<u>221,200</u>	<u>0</u>	<u>0</u>	<u>256,200</u>
TOTAL	\$1,916,300	\$2,143,300	\$171,200	\$95,400	\$4,326,200
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission					
Fund	\$398,500	\$270,100			\$668,600
Parimutuel Distributions					
Fund	<u>0</u>	<u>0</u>		<u>\$30,000</u>	<u>30,000</u>
TOTAL	\$398,500	\$270,100		\$30,000	\$698,600
GRAND TOTAL	\$42,117,000	\$14,479,800	\$1,819,900	\$6,701,100	\$65,117,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred twenty-nine and seven-hundredths (529.07) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Division of Idaho State Police is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4),

Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 242
(H.B. No. 677)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 163, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$36,100 from the General Fund to the Commission for Pardons and Parole, to be expended for personnel costs, for the period July 1, 2011, through June 30, 2012.

SECTION 2. There is hereby appropriated to the Commission for Pardons and Parole, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,900,900	\$374,100	\$4,000	\$2,279,000
Miscellaneous Revenue				
Fund	<u>0</u>	<u>70,700</u>	<u>0</u>	<u>70,700</u>
TOTAL	\$1,900,900	\$444,800	\$4,000	\$2,349,700

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for Pardons and Parole is authorized no more than thirty-two (32) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 243
(H.B. No. 678)

AN ACT

RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 1, CHAPTER 297, LAWS OF 2011, TO SHIFT MONEYS BETWEEN EXPENSE CLASSES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR COUNTY AND OUT-OF-STATE PLACEMENT FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING A PORTION OF THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 297, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 1. In addition to the appropriation made in Section 3 of House Bill No. 276, as enacted by the First Regular Session of the Sixty-first Idaho Legislature, there is hereby appropriated to the Department of Correction for community-based substance abuse treatment and the region seven community corrections project the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2011, through June 30, 2012:

FOR:

<u>Personnel Costs</u>	<u>\$595,200</u>
<u>Operating Expenditures</u>	<u>30,000</u>
Trustee and Benefit Payments	\$1,708,600
	<u>1,083,400</u>
<u>TOTAL</u>	<u>\$1,708,600</u>

FROM:

General Fund	\$1,708,600
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SECTION 2. In addition to the appropriation made in Section 3, Chapter 192, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$1,500,000 from the General Fund to the Department of Correction for County and Out-of-State Placement, to be expended for operating expenditures, for the period July 1, 2011, through June 30, 2012.

SECTION 3. There is hereby appropriated to the Department of Correction, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$7,093,300	\$3,032,400	\$400,000		\$10,525,700
Inmate Labor					
Fund	35,500				35,500
Parolee Supervision					
Fund	162,000	92,300			254,300
Miscellaneous Revenue					
Fund	272,600	93,200			365,800
Penitentiary Endowment Income					
Fund			191,400		191,400
Federal Grant					
Fund	<u>0</u>	<u>414,000</u>	<u>0</u>		<u>414,000</u>
TOTAL	\$7,563,400	\$3,631,900	\$591,400		\$11,786,700

II. STATE PRISONS:

A. PRISONS ADMINISTRATION:

FROM:

General

Fund	\$685,000	\$61,300			\$746,300
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Miscellaneous Revenue

Fund	<u>162,800</u>	<u>53,900</u>			<u>216,700</u>
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TOTAL	\$847,800	\$115,200			\$963,000
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$17,819,700	\$3,429,400			\$21,249,100
Inmate Labor					
Fund		47,200			47,200
Miscellaneous Revenue					
Fund	536,100	138,400			674,500
Penitentiary Endowment Income					
Fund		745,700	\$148,700		894,400
Federal Grant					
Fund	<u>141,100</u>	<u>0</u>	<u>0</u>		<u>141,100</u>
TOTAL	\$18,496,900	\$4,360,700	\$148,700		\$23,006,300
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Fund	\$6,464,500	\$1,380,000			\$7,844,500
Inmate Labor					
Fund	885,200	640,700			1,525,900
Miscellaneous Revenue					
Fund	52,100	53,000			105,100
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	\$112,500		<u>112,500</u>
TOTAL	\$7,401,800	\$2,073,700	\$112,500		\$9,588,000
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Fund	\$3,950,800	\$962,700			\$4,913,500
Inmate Labor					
Fund		32,600			32,600
Miscellaneous Revenue					
Fund	46,200	141,000			187,200
Penitentiary Endowment Income					
Fund			\$53,800		53,800
Federal Grant					
Fund	<u>0</u>	<u>300,000</u>	<u>500,000</u>		<u>800,000</u>
TOTAL	\$3,997,000	\$1,436,300	\$553,800		\$5,987,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$5,278,300	\$1,433,300			\$6,711,600
Inmate Labor					
Fund	892,300	453,000	\$102,100		1,447,400
Miscellaneous Revenue					
Fund	89,800	47,600			137,400
Penitentiary Endowment Income					
Fund			72,600		72,600
Federal Grant					
Fund	<u>56,600</u>	<u>0</u>	<u>0</u>		<u>56,600</u>
TOTAL	\$6,317,000	\$1,933,900	\$174,700		\$8,425,600
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$8,126,600	\$1,771,800			\$9,898,400
Inmate Labor					
Fund		23,600			23,600
Miscellaneous Revenue					
Fund	56,300	50,300			106,600
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$42,000</u>		<u>42,000</u>
TOTAL	\$8,182,900	\$1,845,700	\$42,000		\$10,070,600
G. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund	\$1,851,500	\$403,100			\$2,254,600
Inmate Labor					
Fund	775,400	511,800			1,287,200
Miscellaneous Revenue					
Fund		16,000			16,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$17,500</u>		<u>17,500</u>
TOTAL	\$2,626,900	\$930,900	\$17,500		\$3,575,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$4,488,200	\$875,200			\$5,363,400
Inmate Labor					
Fund	249,100	118,100	\$22,300		389,500
Miscellaneous Revenue					
Fund	220,800	20,500			241,300
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>13,800</u>		<u>13,800</u>
TOTAL	\$4,958,100	\$1,013,800	\$36,100		\$6,008,000
I. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$2,722,600	\$630,700			\$3,353,300
Miscellaneous Revenue					
Fund	<u>0</u>	<u>5,200</u>			<u>5,200</u>
TOTAL	\$2,722,600	\$635,900			\$3,358,500
DIVISION					
TOTAL	\$55,551,000	\$14,346,100	\$1,085,300		\$70,982,400
III. PRIVATE PRISONS:					
FROM:					
General					
Fund		\$29,766,000			\$29,766,000
IV. COUNTY & OUT-OF-STATE PLACEMENT:					
FROM:					
General					
Fund		\$7,100,000			\$7,100,000
Federal Grant					
Fund		<u>83,700</u>			<u>83,700</u>
TOTAL		\$7,183,700			\$7,183,700
V. CORRECTIONAL ALTERNATIVE PLACEMENT:					
FROM:					
General					
Fund		\$7,666,300	\$720,800		\$8,387,100
Miscellaneous Revenue					
Fund		<u>90,000</u>	<u>0</u>		<u>90,000</u>
TOTAL		\$7,756,300	\$720,800		\$8,477,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. COMMUNITY CORRECTIONS:					
A. COMMUNITY SUPERVISION:					
FROM:					
General					
Fund	\$11,827,500	\$1,284,600			\$13,112,100
Parolee Supervision					
Fund	5,322,900	1,154,800			6,477,700
Drug and Mental Health Court Supervision					
Fund	399,000	27,200			426,200
Federal Grant					
Fund	<u>50,800</u>	<u>73,800</u>			<u>124,600</u>
TOTAL	\$17,600,200	\$2,540,400			\$20,140,600
B. COMMUNITY WORK CENTERS:					
FROM:					
General					
Fund	\$2,368,300	\$1,600			\$2,369,900
Inmate Labor					
Fund	587,700	1,120,800	\$191,200		1,899,700
Miscellaneous Revenue					
Fund	<u>0</u>	<u>29,700</u>	<u>0</u>		<u>29,700</u>
TOTAL	\$2,956,000	\$1,152,100	\$191,200		\$4,299,300
DIVISION					
TOTAL	\$20,556,200	\$3,692,500	\$191,200		\$24,439,900
VII. EDUCATION & TREATMENT:					
A. OFFENDER PROGRAMS:					
FROM:					
General					
Fund	\$1,545,800	\$609,600			\$2,155,400
Inmate Labor					
Fund		84,100			84,100
Miscellaneous Revenue					
Fund	90,800	59,500			150,300
Federal Grant					
Fund	<u>392,900</u>	<u>852,700</u>			<u>1,245,600</u>
TOTAL	\$2,029,500	\$1,605,900			\$3,635,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT:					
FROM:					
General					
Fund	\$1,444,800	\$65,800		\$4,016,200	\$5,526,800
DIVISION					
TOTAL	\$3,474,300	\$1,671,700		\$4,016,200	\$9,162,200
VIII. MEDICAL SERVICES:					
FROM:					
General					
Fund		\$25,221,000			\$25,221,000
Miscellaneous Revenue					
Fund		<u>81,000</u>			<u>81,000</u>
TOTAL		\$25,302,000			\$25,302,000
GRAND TOTAL	\$87,144,900	\$93,350,200	\$2,588,700	\$4,016,200	\$187,100,000

SECTION 4. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand five hundred sixty-one and ninety-three hundredths (1,561.93) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Department of Correction is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, allowing unlimited transfers between and among the Private Prisons, County and Out-of-State Placement, Correctional Alternative Placement and Medical Services programs, for all General Fund moneys appropriated to those programs for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 6. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employ-

ees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 244
(H.B. No. 679)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE BOND PAYMENT PROGRAM FOR FISCAL YEAR 2013.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Bond Payment Program, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
General			
Fund	\$2,687,400	\$1,680,200	\$4,367,600
Permanent Building			
Fund	9,473,200	18,288,200	27,761,400
Administration and Accounting Services			
Fund	<u>424,200</u>	<u>229,000</u>	<u>653,200</u>
TOTAL	\$12,584,800	\$20,197,400	\$32,782,200

Approved April 3, 2012.

CHAPTER 245
(H.B. No. 680)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; EXEMPTING THE DEPARTMENT FROM CERTAIN TRANSFER LIMITATIONS; AND PROVIDING REAPPROPRIATION AUTHORITY FOR CERTAIN BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$328,500	\$250,600			\$579,100
Indirect Cost Recovery					
Fund	205,000	347,800	\$77,600		630,400
Parks and Recreation					
Fund	1,076,500	977,000		\$205,000	2,258,500
Recreational Fuels					
Fund	516,000	86,600		2,221,800	2,824,400
Parks and Recreation Registration					
Fund	387,300	145,800		5,901,200	6,434,300
Miscellaneous Revenue					
Fund		15,600			15,600
Federal Grant					
Fund	<u>0</u>	<u>2,600</u>	<u>0</u>	<u>1,997,100</u>	<u>1,999,700</u>
TOTAL	\$2,513,300	\$1,826,000	\$77,600	\$10,325,100	\$14,742,000
II. PARK OPERATIONS:					
FROM:					
General					
Fund	\$292,800	\$450,700			\$743,500
Indirect Cost Recovery					
Fund		2,400			2,400
Parks and Recreation					
Fund	3,520,200	1,365,800			4,886,000
Recreational Fuels					
Fund	125,300	244,600	\$1,247,400		1,617,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Parks and Recreation Registration					
Fund	2,279,200	801,300	54,000	\$200,000	3,334,500
Miscellaneous Revenue					
Fund	3,000	76,500			79,500
Public Recreation Enterprise					
Fund	696,600	1,089,000			1,785,600
Parks and Recreation Expendable Trust					
Fund	477,700	405,600	19,000		902,300
Federal Grant					
Fund	<u>1,022,600</u>	<u>628,600</u>	<u>0</u>	<u>1,227,500</u>	<u>2,878,700</u>
TOTAL	\$8,417,400	\$5,064,500	\$1,320,400	\$1,427,500	\$16,229,800
III. CAPITAL DEVELOPMENT:					
FROM:					
Recreational Fuels					
Fund			\$829,700		\$829,700
Miscellaneous Revenue					
Fund			236,000		236,000
Public Recreation Enterprise					
Fund			100,000		100,000
Parks and Recreation Expendable Trust					
Fund			25,000		25,000
Federal Grant					
Fund			<u>210,000</u>		<u>210,000</u>
TOTAL			\$1,400,700		\$1,400,700
GRAND TOTAL	\$10,930,700	\$6,890,500	\$2,798,700	\$11,752,600	\$32,372,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred forty-three and five-tenths (143.5) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees;

and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. Notwithstanding Section 67-3511(2), Idaho Code, trustee and benefit payments for project grants in the Management Services Program may be transferred to the Capital Development Program to reflect project grants awarded to the Department of Parks and Recreation for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 5. REAPPROPRIATION. Unexpended and unencumbered capital outlay balances in the Capital Development Program for fiscal year 2012 are hereby reappropriated for capital outlay in that program for the period July 1, 2012, through June 30, 2013.

Approved April 3, 2012.

CHAPTER 246
(H.B. No. 681)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 3, Chapter 160, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Department of Agriculture, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
I. ANIMAL INDUSTRIES:					
FROM:					
Agricultural Fees - Poultry Inspection					
Fund	\$4,000	\$1,000			\$5,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PLANT INDUSTRIES:					
FROM:					
Agricultural Fees - Commercial Feed and Fertilizer					
Fund			\$175,000		\$175,000
III. MARKETING AND DEVELOPMENT:					
FROM:					
Federal Grant					
Fund		\$25,000		\$250,000	\$275,000
GRAND TOTAL	\$4,000	\$26,000	\$175,000	\$250,000	\$455,000

SECTION 2. There is hereby appropriated to the Department of Agriculture, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$593,500	\$394,700			\$988,200
Administration and Accounting Services					
Fund	866,000	175,100	\$71,100		1,112,200
Facilities Maintenance					
Fund	<u>128,000</u>	<u>184,200</u>	<u>0</u>		<u>312,200</u>
TOTAL	\$1,587,500	\$754,000	\$71,100		\$2,412,600
II. ANIMAL INDUSTRIES:					
FROM:					
General					
Fund	\$1,333,900	\$208,700			\$1,542,600
Agricultural Inspection					
Fund	38,000	9,700			47,700
Agricultural Fees - Livestock Disease Control					
Fund	450,200	263,200	\$103,800		817,200
Agricultural Fees - Dairy Inspection					
Fund	1,032,900	326,500	187,800		1,547,200
Agricultural Fees - Egg Inspection					
Fund	145,100	15,200			160,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Commercial Fisheries					
Fund	5,700	4,200			9,900
Agricultural Fees - Poultry Inspection					
Fund	72,200	17,500			89,700
Seminars and Publications					
Fund		98,400			98,400
Federal Grant					
Fund	<u>529,500</u>	<u>334,900</u>	<u>0</u>	<u>\$183,200</u>	<u>1,047,600</u>
TOTAL	\$3,607,500	\$1,278,300	\$291,600	\$183,200	\$5,360,600

III. AGRICULTURAL RESOURCES:

FROM:

General

Fund	\$178,400	\$130,100			\$308,500
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Agricultural Fees - Pesticides

Fund	1,628,400	624,700	\$69,400		2,322,500
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Federal Grant

Fund	<u>435,900</u>	<u>173,700</u>	<u>0</u>		<u>609,600</u>
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TOTAL	\$2,242,700	\$928,500	\$69,400		\$3,240,600
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IV. PLANT INDUSTRIES:

FROM:

General

Fund	\$1,061,800	\$682,400		\$1,288,000	\$3,032,200
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Agricultural Inspection

Fund	994,100	274,200	\$11,700	111,100	1,391,100
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Invasive Species

Fund	500,000	350,000	15,000	650,000	1,515,000
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Agricultural Fees - Commercial Feed and Fertilizer

Fund	986,200	293,500	67,500		1,347,200
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Agricultural Fees - Honey Advertising

Fund	400	16,300			16,700
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Quality Assurance Laboratory Services

Fund	355,700	70,400	34,500		460,600
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Federal Grant

Fund	<u>735,300</u>	<u>1,707,900</u>	<u>4,200</u>	<u>2,236,700</u>	<u>4,684,100</u>
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TOTAL	\$4,633,500	\$3,394,700	\$132,900	\$4,285,800	\$12,446,900
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V. AGRICULTURAL INSPECTIONS:

FROM:

General

Fund	\$603,300	\$139,600			\$742,900
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Inspection					
Fund	43,400	12,000			55,400
Weights and Measures Inspection					
Fund	223,900	60,000	\$72,400		356,300
Agricultural Fees - Organic Food Products					
Fund	218,100	79,700			297,800
Agricultural Fees - Fresh Fruit and Vegetable Inspection					
Fund	6,272,500	1,467,100	278,500	\$371,100	8,389,200
Federal Grant					
Fund	<u>0</u>	<u>10,000</u>	<u>0</u>	<u>100,000</u>	<u>110,000</u>
TOTAL	\$7,361,200	\$1,768,400	\$350,900	\$471,100	\$9,951,600

VI. MARKET DEVELOPMENT:

FROM:

General

Fund	\$366,800	\$333,400			\$700,200
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Agricultural Inspection

Fund	23,500	70,300	\$40,200		134,000
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Miscellaneous Revenue

Fund	75,000	50,000			125,000
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Seminars and Publications

Fund		245,700			245,700
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USDA Publications

Fund		64,900			64,900
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Rural Economic Development Integrated Freight Trans.

Fund	9,300	20,000		\$100,000	129,300
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Revolving Loans

Fund	12,300	15,300			27,600
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Federal Grant

Fund	<u>112,700</u>	<u>175,500</u>	<u>0</u>	<u>492,500</u>	<u>780,700</u>
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TOTAL	\$599,600	\$975,100	\$40,200	\$592,500	\$2,207,400
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VII. ANIMAL DAMAGE CONTROL:

FROM:

General

Fund				\$138,800	\$138,800
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Animal Damage Control

Fund				215,700	215,700
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	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
Agricultural Fees - Sheep Industry Regulation					
Fund		\$200		167,200	167,400
Federal Grant					
Fund		<u>0</u>		<u>150,000</u>	<u>150,000</u>
TOTAL		\$200		\$671,700	\$671,900
VIII. SHEEP COMMISSION:					
FROM:					
General					
Fund	\$56,700				\$56,700
Agricultural Fees - Sheep Industry Regulation					
Fund	<u>62,200</u>	<u>\$37,900</u>			<u>100,100</u>
TOTAL	\$118,900	\$37,900			\$156,800
GRAND TOTAL	\$20,150,900	\$9,137,100	\$956,100	\$6,204,300	\$36,448,400

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred ninety-five and sixty-eight hundredths (195.68) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 247
(H.B. No. 682)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MEDICAL ASSISTANCE SERVICES AND LICENSING AND CERTIFICATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE CO-OPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; PROVIDING FOR REAPPROPRIATION OF GENERAL FUNDS; DIRECTING ADDITIONAL NURSING FACILITY ADJUSTMENT PAYMENTS; REQUIRING MONTHLY FORECAST REPORTING FOR THE MEDICAL ASSISTANCE SERVICES AND THE INDIRECT SUPPORT SERVICES DIVISIONS; PROVIDING FOR TRANSFERS IN ADDITION TO TEN PERCENT FOR MEDICAL ASSISTANCE SERVICES FOR THE COORDINATED, ENHANCED, AND BASIC MEDICAID PLANS; PROVIDING LEGISLATIVE INTENT FOR MEDICAL ASSISTANCE SERVICES FOR REPORTING THE IMPLEMENTATION OF HOUSE BILL NO. 260, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE; PROVIDING LEGISLATIVE INTENT FOR IMPLEMENTING MEDICAID MANAGED CARE; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAL ASSISTANCE SERVICES:					
A. MEDICAID ADMINISTRATION & MEDICAL MGMT:					
FROM:					
Cooperative Welfare (General)					
Fund	\$5,498,500	\$7,829,500	\$6,000	\$1,219,200	\$14,553,200
Idaho Health Insurance Access Card					
Fund		152,000			152,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Dedicated)					
Fund	10,600	9,083,800			9,094,400
Cooperative Welfare (Federal)					
Fund	<u>9,332,000</u>	<u>36,794,500</u>	<u>35,000</u>	<u>1,638,600</u>	<u>47,800,100</u>
TOTAL	\$14,841,100	\$53,859,800	\$41,000	\$2,857,800	\$71,599,700

B. COORDINATED MEDICAID PLAN:

FROM:

Cooperative Welfare (General)

Fund				\$124,151,400	\$124,151,400
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Hospital Assessment

Fund				25,319,000	25,319,000
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Cooperative Welfare (Dedicated)

Fund				800,300	800,300
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Cooperative Welfare (Federal)

Fund				<u>269,720,100</u>	<u>269,720,100</u>
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TOTAL				\$419,990,800	\$419,990,800
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C. ENHANCED MEDICAID PLAN:

FROM:

Cooperative Welfare (General)

Fund				\$219,924,900	\$219,924,900
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Idaho Health Insurance Access Card

Fund				1,551,400	1,551,400
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Medical Assistance

Fund				2,500	2,500
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Hospital Assessment

Fund				11,347,600	11,347,600
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Cooperative Welfare (Dedicated)

Fund				121,985,600	121,985,600
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Cooperative Welfare (Federal)

Fund				<u>528,950,900</u>	<u>528,950,900</u>
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TOTAL				\$883,762,900	\$883,762,900
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D. BASIC MEDICAID PLAN:

FROM:

Cooperative Welfare (General)

Fund				\$115,547,700	\$115,547,700
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Idaho Health Insurance Access Card

Fund				4,077,100	4,077,100
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Hospital Assessment

Fund				22,322,700	22,322,700
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	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
Cooperative Welfare (Dedicated)					
Fund				2,971,100	2,971,100
Cooperative Welfare (Federal)					
Fund				<u>391,087,500</u>	<u>391,087,500</u>
TOTAL				\$536,006,100	\$536,006,100
DIVISION					
TOTAL	\$14,841,100	\$53,859,800	\$41,000	\$1,842,617,600	\$1,911,359,500
II. LICENSING AND CERTIFICATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,034,900	\$271,700			\$1,306,600
Cooperative Welfare (Dedicated)					
Fund	602,300	12,200			614,500
Cooperative Welfare (Federal)					
Fund	<u>2,505,100</u>	<u>615,100</u>			<u>3,120,200</u>
TOTAL	\$4,142,300	\$899,000			\$5,041,300
GRAND TOTAL	\$18,983,400	\$54,758,800	\$41,000	\$1,842,617,600	\$1,916,400,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Medical Assistance Services 208
Licensing and Certification 60

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2013.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balance of General Fund moneys in the Cooperative Welfare Fund

as appropriated to the Coordinated Medicaid Plan, Enhanced Medicaid Plan, and Basic Medicaid Plan for trustee and benefit payments for fiscal year 2012, to be made available for the period July 1, 2012, to June 30, 2013. The reappropriation shall be computed by the Department of Health and Welfare and, for budgeting purposes, any General Fund portion of the balance in the Cooperative Welfare Fund from trustee and benefit payments in the Medical Assistance Services Division, in the programs identified herein, shall be identified as part of the General Fund. The reappropriation for the General Fund portion of the Cooperative Welfare Fund granted in this section shall be subject to the following provisions: (1) If the unexpended and unencumbered balance in the General Fund on June 30, 2012, is zero, the reappropriation for the General Fund in this section is hereby declared to be null and void: (2) If the unexpended and unencumbered balance in the General Fund on June 30, 2012, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in this section shall be in the proportion that the reappropriation of this agency bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 7. NURSING FACILITY ADJUSTMENT PAYMENTS. Notwithstanding the provisions of Section 56-1511, Idaho Code, with the exceptions noted herein, and pending the availability of General Fund resources, the Department of Health and Welfare shall devote \$1,500,000 of unexpended and unencumbered funds for fiscal year 2012 to decrease the portion of the Nursing Facility Assessment referred to as the "Nursing Facility Gap/Trustee and Benefit Assessment." The Nursing Facility Gap/Trustee and Benefit Assessment is the portion of the assessment attributable to the provisions of Section 56-1504(3)(g), Idaho Code. In doing so, the \$13,500,000 currently budgeted from the Nursing Facility Gap/Trustee and Benefit Assessment shall decrease to \$12,000,000, allowing a like increase in available Nursing Facility Assessment moneys to devote to the Nursing Home Upper Payment Limit Assessment, resulting in a net zero impact to overall Nursing Home Assessment Payments. As soon as practicable, the Department of Health and Welfare shall issue additional Nursing Facility Adjustment Payments as defined in Section 56-1511, Idaho Code. The distribution methodology for the additional Nursing Facility Adjustment Payments shall be consistent with Section 56-1511, Idaho Code.

SECTION 8. ACTUAL AND FORECAST DETAIL REPORTING. The Department of Health and Welfare Medical Assistance Services Division and Indirect Support Services Division shall deliver on a monthly basis to the Legislative Services Office and Division of Financial Management a report that compares the Medicaid Forecast used to set the budget to actual expenditures and remaining forecasted expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 9. TRANSFER OF APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funding provided for the trustee and benefit payments expenditure class in the Medical Assistance Services Division may be transferred in excess of ten percent (10%) among the Coordinated Medicaid Plan, Enhanced Medicaid Plan, and Basic Medicaid Plan, but shall not be transferred to any other budgeted programs or expenditure classes within the Department of Health and Welfare during fiscal year 2013.

SECTION 10. REPORTING ON IMPLEMENTATION OF HOUSE BILL NO. 260 OF 2011. The Medical Assistance Services Division shall report on a quarterly basis the status of the implementation of House Bill No. 260, as enacted by the First Regular Session of the Sixty-first Idaho Legislature, to the

Legislative Services Office and Division of Financial Management. The report shall, at a minimum, include benefit modification implementation updates on both long-term and short-term changes, and actual cost savings realized as a result of those changes compared to estimated savings for each modification. The format of the report, and information contained therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 11. MEDICAID MANAGED CARE IMPLEMENTATION. The Medical Assistance Services Division shall deliver the Medicaid Managed Care actuarial analysis required in House Bill No. 260, as enacted by the First Regular Session of the Sixty-first Idaho Legislature, upon completion. Further, in acknowledgment of the associated funding provided in Section 1 of this act for development of an Idaho Managed Care Implementation Plan, the Medical Assistance Services Division shall submit written reports not less than quarterly to the Legislative Services Office and Division of Financial Management on the progress of the Idaho Managed Care Implementation Plan development. The format of the quarterly report, and the information contained therein, shall be determined by the Legislative Services Office and Division of Financial Management. It is the intent of the Legislature that the Idaho Managed Care Implementation Plan shall be complete by June 30, 2013, and provided to the Legislative Services Office and Division of Financial Management upon completion.

SECTION 12. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, Section 7 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 248
(H.B. No. 684)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND PROVIDING GENERAL FUND REAPPROPRIATION FOR THE SCHOLARSHIPS AND GRANTS PROGRAM FOR FISCAL YEAR 2013.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General					
Fund	\$454,800	\$48,300	\$1,000		\$504,100
II. GEOLOGICAL SURVEY:					
FROM:					
General					
Fund	\$679,200	\$16,000	\$6,000		\$701,200
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General					
Fund				\$6,663,300	\$6,663,300
Federal Grant					
Fund	\$17,200	\$1,000		<u>1,299,000</u>	<u>1,317,200</u>
TOTAL	\$17,200	\$1,000		\$7,962,300	\$7,980,500
IV. MUSEUM OF NATURAL HISTORY:					
FROM:					
General					
Fund	\$438,700	\$13,800			\$452,500
V. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General					
Fund	\$247,500				\$247,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. TECHHELP:					
FROM:					
General					
Fund	\$143,900				\$143,900
GRAND TOTAL	\$1,981,300	\$79,100	\$7,000	\$7,962,300	\$10,029,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the State Board of Education and the Board of Regents of the University of Idaho specified in this section is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Forest Utilization Research	4.38
Geological Survey	9.78
Scholarships and Grants	0.35
Museum of Natural History	7.20
Small Business Development Centers	3.87
TechHelp	1.75

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for the Scholarships and Grants Program, the unexpended and unencumbered balance of General Fund moneys as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013. The reappropriation for the General Fund granted in this section shall be subject to the following provisions: (1) If the unexpended and unencumbered balance in the General

Fund on June 30, 2012, is zero, the reappropriation for the General Fund in this section is hereby declared to be null and void: (2) If the unexpended and unencumbered balance in the General Fund on June 30, 2012, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in this section shall be in the proportion that the reappropriation of this agency bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 3, 2012.

CHAPTER 249
(H.B. No. 686)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Office of Drug Policy, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$231,200	\$54,300	\$787,400	\$1,072,900
Miscellaneous Revenue				
Fund	0	3,500	0	3,500
TOTAL	\$231,200	\$57,800	\$787,400	\$1,076,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent

performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 250
(H.B. No. 696)

AN ACT

RELATING TO APPROPRIATIONS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS; AMENDING SECTION 1, CHAPTER 249, LAWS OF 2011, TO MOVE MONEYS FROM OPERATING EXPENDITURES TO PERSONNEL COSTS; APPROPRIATING MONEYS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 249, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Health Education Programs, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$500,000	\$1,211,300			\$1,711,300
Restricted					
Fund	<u>0</u>	<u>0</u>		\$100,000	<u>100,000</u>
TOTAL	\$500,000	\$1,211,300		\$100,000	\$1,811,300

II. WWAMI MEDICAL EDUCATION:

FROM:

General

Fund	\$466,000	\$26,700		\$2,958,900	\$3,451,600
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Unrestricted (Uncontrolled)					
Fund	<u>188,900</u>	<u>248,000</u>			
	<u>301,100</u>	<u>135,800</u>		<u>0</u>	<u>436,900</u>
TOTAL	\$654,900	\$274,700		\$2,958,900	\$3,888,500
	<u>\$767,100</u>	<u>\$162,500</u>			
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$216,600			\$1,141,200	\$1,357,800
Unrestricted					
Fund	<u>157,100</u>	<u>\$10,000</u>	<u>\$5,500</u>	<u>0</u>	<u>172,600</u>
TOTAL	\$373,700	\$10,000	\$5,500	\$1,141,200	\$1,530,400
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,242,400	\$1,242,400
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$566,300	\$291,000		\$1,080,900	\$1,938,200
VI. WICHE:					
FROM:					
General					
Fund				\$188,200	\$188,200
VII. PSYCHIATRY RESIDENCY:					
FROM:					
General					
Fund				\$111,400	\$111,400
GRAND TOTAL	<u>\$2,094,900</u>	<u>\$1,787,000</u>	<u>\$5,500</u>	<u>\$6,823,000</u>	<u>\$10,710,400</u>
	<u>\$2,207,100</u>	<u>\$1,674,800</u>			

SECTION 2. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for the Health Education Programs, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$517,100	\$1,244,300	\$20,900		\$1,782,300
Restricted					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$517,100	\$1,244,300	\$20,900	\$100,000	\$1,882,300
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$479,600	\$26,700		\$2,958,900	\$3,465,200
Unrestricted (Uncontrolled)					
Fund	<u>309,800</u>	<u>211,900</u>		<u>0</u>	<u>521,700</u>
TOTAL	\$789,400	\$238,600		\$2,958,900	\$3,986,900
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$222,800			\$1,184,800	\$1,407,600
Unrestricted					
Fund	<u>161,600</u>	<u>\$17,100</u>	<u>\$5,500</u>	<u>0</u>	<u>184,200</u>
TOTAL	\$384,400	\$17,100	\$5,500	\$1,184,800	\$1,591,800
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,257,200	\$1,257,200
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$582,000	\$291,000		\$1,080,900	\$1,953,900
VI. WICHE:					
FROM:					
General					
Fund				\$141,700	\$141,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. PSYCHIATRY RESIDENCY:					
FROM:					
General					
Fund				\$111,400	\$111,400
GRAND TOTAL	\$2,272,900	\$1,791,000	\$26,400	\$6,834,900	\$10,925,200

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Board of Education and the Board of Regents of the University of Idaho for college and universities is authorized no more than twenty and five-tenths (20.5) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for the Health Education Programs any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

CHAPTER 251
(H.B. No. 698)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004E, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN INCREASES TO BASE AND MINIMUM SALARIES, TO REVISE PROVISIONS RELATING TO CERTAIN ADJUSTMENTS TO A DISTRICT'S SALARY-BASED APPORTIONMENT AND TO PROVIDE THAT FOR FISCAL YEAR 2014, CERTAIN STATE FUNDS APPROPRIATED SHALL BE DIRECTED PURSUANT TO CERTAIN PROVISIONS OF LAW AND ALSO FOR COSTS ASSOCIATED WITH ANY INCREASE IN THE NUMBER OF SUPPORT UNITS, PRIOR TO FUNDING OF ANY OTHER INCREASES IN THE EDUCATIONAL SUPPORT PROGRAM; AND PROVIDING A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. The district instructional staff index shall be multiplied by the instructional base salary of \$23,123. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than \$29,655 for fiscal year 2011, or \$30,000 thereafter. The resulting amount is the district's salary-based apportionment for instructional staff. After the base and minimum salaries established pursuant to this subsection have reached the amounts that were in effect in fiscal year 2009, all further increases to these base and minimum salaries shall be allocated such that the percentage increase in the minimum salary is ~~one and one-half (1.5) times~~ twice the percentage increase in the base salary.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. The district administrative staff index shall be multiplied by the base salary of \$31,833. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply \$18,684 by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, adjusted by the following percentages:

Fiscal Year	Percentage
2012 <u>and each fiscal year thereafter</u>	(1.67%)
2013	(4.05%)
2014	(6.30%)
2015	(6.42%)
2016	(6.21%)
2017 <u>and each fiscal year thereafter</u>	(5.74%)

plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

5. For fiscal year 2014, any increased state funds appropriated for the educational support program, above the amount appropriated for fiscal year 2013, shall be directed pursuant to the provisions of sections 33-1004I, 33-1022, 33-1626 and 33-1627, Idaho Code, and also for costs associated with any increase in the number of support units, prior to the funding of any other increases in the educational support program.

SECTION 2. If Chapter 247, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

Approved April 3, 2012.

CHAPTER 252
(S.B. No. 1231, As Amended)

AN ACT

RELATING TO A MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM; AMENDING SECTION 39-116B, IDAHO CODE, TO PROVIDE FOR A REPAIR WAIVER AND A HARDSHIP WAIVER AND TO PROVIDE FOR RECOMMENDATIONS TO THE LEGISLATURE FROM THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY EVERY FIVE YEARS BEGINNING IN 2013.

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

SECTION 1. That Section 39-116B, Idaho Code, be, and the same is hereby amended to read as follows:

39-116B. VEHICLE INSPECTION AND MAINTENANCE PROGRAM. (1) The board shall initiate rulemaking to provide for the implementation of a motor vehicle inspection and maintenance program to regulate and ensure control of the air pollutants and emissions from registered motor vehicles in an attainment or unclassified area as designated by the United States environmental protection agency, not otherwise exempted in subsection (7) of this section, if the director determines the following conditions are met:

- (a) An airshed, as defined by the department, within a metropolitan statistical area, as defined by the United States office of management and budget, has ambient concentration design values equal to or above eighty-five percent (85%) of a national ambient air quality standard, as defined by the United States environmental protection agency, for three (3) consecutive years starting with the 2005 design value; and
- (b) The department determines air pollutants from motor vehicles constitute one (1) of the top two (2) emission sources contributing to the design value of eighty-five percent (85%).

(2) In the event both of the conditions in subsection (1) of this section are met, the board shall establish by rule minimum standards for an in-

spection and maintenance program for registered motor vehicles, not otherwise exempted in subsection (7) of this section, which shall provide for:

- (a) Counties and cities within the airshed that will be subject to the motor vehicle inspection and maintenance program;
- (b) The requirements for licensing authorized inspection stations and technicians;
- (c) The frequency with which inspections shall be required, provided that inspections shall occur no more than once every two (2) years;
- (d) The procedures under which authorized inspection stations and technicians inspect motor vehicles and issue evidence of compliance;
- (e) The criteria under which it is to be determined that a motor vehicle is eligible for a certificate of compliance;
- (f) The parameters and diagnostic equipment necessary to perform the required inspection. The rules shall ensure that the equipment complies with any applicable standards of the United States environmental protection agency;
- (g) A fee, bond or insurance which is necessary to carry out the provisions of this section and to fund an air quality public awareness and outreach program. The fee for a motor vehicle inspection shall not exceed twenty dollars (\$20.00) per vehicle;
- (h) The issuance of a pamphlet for distribution to owners of motor vehicles explaining the reasons for and the methods of the inspections; and
- (i) The granting of a waiver from the minimum standards as provided by rule, which may be based on model year, fuel, size, or other factors, which shall include, but not be limited to, a repair waiver and a hard-ship waiver.

(3) In the event both of the conditions in subsection (1) of this section are met, the director shall attempt to enter into a joint exercise of powers agreement under sections 67-2326 through 67-2333, Idaho Code, with the board of county commissioners of each county within the airshed in which a motor vehicle inspection and maintenance program is required under this section, and the councils of incorporated cities within those counties, to develop a standardized inspection and maintenance program. If the board of county commissioners or the councils of incorporated cities within those counties choose not to enter into a joint exercise of powers agreement with the director, then within one hundred twenty (120) days of the director's written request to enter into such an agreement, the board of county commissioners or the councils of incorporated cities may notify the department that it will implement an alternative motor vehicle emission control strategy that will result in emissions reductions equivalent to that of a vehicle emission inspection program. If the department determines the emissions reductions of the alternative motor vehicle emission control strategy are not equivalent, or no equivalent reductions are proposed, the department or its designee shall implement the motor vehicle inspection and maintenance program required pursuant to the provisions of this section.

(4) The Idaho transportation department shall revoke the registration of any motor vehicle identified by the department or its designee, or any city or county administering a program established under the provisions of this section as having failed to comply with such motor vehicle inspection and maintenance program, except that no vehicle shall be identified to the Idaho transportation department unless:

- (a) The department or its designee, or the city or county certifies to the Idaho transportation department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning the program and has exhausted all remedies and appeals from any determination made at such hearing; and
- (b) The department or its designee, or the city or county reimburses the Idaho transportation department for all direct costs associated with the registration revocation procedure.

Any vehicle registration that has been revoked pursuant to the provisions of this section that is found to be in compliance with current emissions standards shall have the registration reinstated without charge.

(5) The department shall annually review the results of the vehicle inspection and maintenance program. The review shall include, among other things, an estimate of the emission reduction obtained from the number of vehicles that initially fail the test and then pass after maintenance.

(6) Every five (5) years beginning with the implementation of the program in 2013, the director shall review the air quality data and determine make recommendations to the legislature for its determination whether a program initially established pursuant to the provisions of this section should be continued, modified or terminated.

(7) Electric or hybrid motor vehicles, new motor vehicles less than five (5) years old, classic automobiles, motorized farm equipment and registered motor vehicles engaged solely in the business of agriculture, shall be exempt from any motor vehicle inspection and maintenance program established pursuant to the provisions of this section.

Approved April 3, 2012.

CHAPTER 253

(S.B. No. 1243, As Amended in the House, As Amended in the House)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION AND LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INITIAL PROGRAM FEES; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402D, IDAHO CODE, TO PROVIDE THAT ANY APPLICANT SEEKING TO PARTICIPATE IN THE SPECIAL LICENSE PLATE PROGRAM SHALL BE REQUIRED TO COMPLETE AN APPLICATION PROCESS, TO PROVIDE REQUIREMENTS, TO PROVIDE FOR RULES, TO PROVIDE ADDITIONAL REQUIREMENTS, TO PROVIDE THAT THE DEPARTMENT SHALL SUBMIT COMPLETED APPLICATIONS TO THE CHAIRMEN OF THE SENATE TRANSPORTATION COMMITTEE AND THE HOUSE OF REPRESENTATIVES TRANSPORTATION AND DEFENSE COMMITTEE, TO PROVIDE FOR A REPORT AND TO PROVIDE FOR APPEALS.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation

registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00).

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways the annual fee shall be nine dollars (\$9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(8) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The wrecker plate shall be issued on an annual basis by the department.

(9) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate

programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420G, 49-420H, 49-420I, 49-420J and 49-420K, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(10) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.

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 49-402D, Idaho Code, and to read as follows:

49-402D. SPECIAL LICENSE PLATE PREQUALIFICATION PROCESS. (1) Any special plate consideration shall:

(a) Submit a financial plan for the use of the proceeds from the special license plate sales; and

(b) Designate an individual who shall be deemed responsible by the agency for certifying compliance with the requirements of this section and working with the department; and

(c) If the applicant is a nonprofit agency, submit evidence to the department that the applicant has 501(c)(3) federal income tax status that has been in existence for at least two (2) years.

(d) The department is authorized and shall adopt and promulgate rules to carry out the provisions of this section.

(2) If the request for a special license plate is approved by the department, the following requirements, in addition to those set out in subsection (1) of this section, shall be met by September 1 prior to the next legislative session.

(a) The applicant shall deposit estimated programming and administrative costs with the department to be utilized for programming costs of the specialty plate. Administrative costs in the amount of one thousand dollars (\$1,000) shall be nonrefundable.

(b) In addition to the requirements provided for in section 49-402C, Idaho Code, the applicant requesting a special license plate program shall provide to the department an acceptable plate design.

(c) The applicant shall transmit to the department a list of two hundred fifty (250) applicants whose vehicles are currently registered in the state of Idaho, who intend to purchase the specialty plate when available, as evidenced by completing forms provided by the department.

(3) The department shall submit the completed applications for special license plate programs that meet the requirements of this section to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee each year on behalf of the agency to be included for consideration in the next legislative session.

(4) On an annual basis, by December 1 of each calendar year, the sponsor of a special license plate program, shall prepare an annual report, which shall be made available on request, and shall be forwarded to the department. Such report shall include an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The department shall compile and forward such reports to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee by January 15 of each year. Failure of the agency to provide such report by the due date shall result in the suspension of the special license plate program sales on January 1 until such report is provided. The provisions of this section shall apply to all special plate programs generating revenue outside of the department excluding military license plate programs.

(5) Any decision by the department that the special license plate program application does not meet the provisions of this section may be appealed to the director of the department. Such notice of appeal shall be made in writing within twenty (20) days of the notice of denial.

Approved April 3, 2012.

CHAPTER 254

(S.B. No. 1256, As Amended in the House)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO RESTRICT THE USE OF PROCEEDS FROM THE AUCTION OF CERTAIN BIGHORN SHEEP TAGS, TO PROVIDE FOR SPECIAL BIG GAME AUCTION TAGS DESIGNATED AS GOVERNOR'S WILDLIFE PARTNERSHIP TAGS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title, and the manner in which said tags and permits shall be used and validated.

(2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely, the participation by nonresidents in controlled hunts.

(3) Outfitters Set-aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. The set-aside tags shall be sold pursuant to commission rule, only to persons that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees as required by the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this subsection are unsold by July 1 of the year in which they were set aside, they may be sold by the department

to the general public who are nonresidents. The commission may promulgate all necessary rules to implement the provisions of this subsection.

(4) Deer and Elk Tag Allocation. If the commission limits the number of deer or elk tags available for use in any game management area, unit or zone, the commission may allocate by rule a number of deer or elk tags for use by hunters that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

(5) Special Game Tags. The commission is hereby authorized to issue two (2) special bighorn sheep tags per year.

(a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation, selected by the commission. The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may be retained by the organization. The tag to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded to the director for deposit in the fish and game expendable trust account and shall be used for bighorn sheep research and management purposes. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area. Provided however, that none of the proceeds generated from the auction of bighorn sheep tags pursuant to this paragraph be used to purchase or acquire private property or federally managed grazing permits, nor shall any proceeds generated be used for matching funds for the purchase of private property or the retirement or the acquisition of federally managed grazing permits.

(b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1) special bighorn sheep tag which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five percent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the department and deposited in the fish and game expendable trust account. Moneys in the account from the lottery bighorn sheep tag shall be utilized by the department in solving problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners.

(6) Issuance of ~~f~~Free ~~p~~Permit or ~~t~~Tag to ~~m~~Minor ~~e~~Children with ~~l~~Life-~~t~~Threatening ~~m~~Medical ~~e~~Conditions. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to minor children who have life-threatening medical conditions that have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection (6). For purposes of this subsection (6) a "qualified organization" means a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue Code and that affords opportunities and experiences to minor children with life-threatening medical conditions.

(7) Issuance of ~~f~~Free ~~p~~Permit or ~~t~~Tag to ~~m~~Military ~~v~~Veterans with ~~d~~Disabilities. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to disabled military veterans who

have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection (7). For purposes of this subsection (7), a "qualified organization" means a governmental agency that assists veterans or a nonprofit organization that is qualified under section 501(c)(3) of the Internal Revenue Code and that affords opportunities, experiences and assistance to disabled veterans.

(8) **Special Wolf Tags.** The commission is hereby authorized to issue up to ten (10) special auction or lottery tags for hunting wolves. Special wolf tags will be auctioned off or made available through lottery by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds for each tag may be retained by the nonprofit organization for administrative costs involved. Each wolf tag shall be issued by the department of fish and game and awarded to the highest eligible bidder or winner of a lottery. Each tag will be good for the harvest of one (1) wolf pursuant to commission rule. The proceeds from each tag will be sent to the director to be placed in the department general license fund.

(9) **Special Big Game Auction Tags -- Governor's Wildlife Partnership Tags.** The commission is hereby authorized to issue special big game auction tags hereafter named and referred to as "Governor's wildlife partnership tags" for hunting designated species on dates and in areas designated by the commission. To enhance and sustain the value of Idaho's wildlife, up to three (3) tags per species per year may be issued for deer, elk and pronghorn antelope, one (1) tag per year may be issued for moose, and one (1) tag per species per year may be issued for mountain goat and bighorn sheep. Each tag will be signed by the governor of Idaho prior to auction to the public and be available to either residents or nonresidents of Idaho. Governor's wildlife partnership tags issued for deer, elk, pronghorn antelope and moose pursuant to this subsection shall be taken from the nonresident controlled hunt programs for these species adopted by the fish and game commission. Governor's wildlife partnership tags issued for mountain goat and bighorn sheep shall be taken from the nonresident mountain goat and bighorn sheep quota. Governor's wildlife partnership tags shall be auctioned off by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds from each tag sale may be retained by the nonprofit organization for administrative costs involved, including in the event a tag is redonated and reauctioned. Each tag shall be issued by the department of fish and game and awarded to the highest eligible bidder. Each tag shall be good for the harvest of one (1) big game animal pursuant to commission rule consistent with the provisions of this subsection. The proceeds from each tag shall be sent to the director to be allocated up to thirty percent (30%) for sportsmen access programs, such as access yes, and the balance for wildlife habitat projects, wildlife management projects to increase the quantity and quality of big game herds, and other research and management activities approved by the commission. Provided however, that none of the proceeds generated from the auctions pursuant to the provisions of this subsection shall be used to purchase or acquire private property or federally managed grazing permits, nor shall any proceeds generated be used for matching funds for the purchase of private property or the retirement or the acquisition of federally managed grazing permits. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep.

CHAPTER 255
(S.B. No. 1270)

AN ACT

RELATING TO APPOINTMENTS BY THE LEGISLATURE TO CERTAIN BOARDS AND COMMITTEES; PROVIDING LEGISLATIVE INTENT; REPEALING SECTION 39-3029, IDAHO CODE, RELATING TO THE PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION MANAGEMENT; REPEALING SECTION 67-4247A, IDAHO CODE, RELATING TO THE GRANT EVALUATION COMMITTEE OF THE STATE TRUST FUND FOR OUTDOOR RECREATION ENHANCEMENT; REPEALING CHAPTER 85, TITLE 67, IDAHO CODE, RELATING TO THE IDAHO HALL OF FAME ADVISORY BOARD; AMENDING SECTION 49-1901, IDAHO CODE, TO REVISE THE NAME OF THE MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT AND TO PROVIDE A CORRECT CITE REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to repeal statutes involving inactive programs that require appointment of members of the Legislature. In addition to the repealed sections in this act, it is legislative intent that no legislative appointment be made for the purposes of the Idaho Commemorative Silver Medallions as provided in Section 67-1223, Idaho Code, until the State Treasurer issues a new series of medallions at which time such legislative appointments would be appropriate.

SECTION 2. That Section 39-3029, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 67-4247A, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 85, Title 67, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 49-1901, Idaho Code, be, and the same is hereby amended to read as follows:

49-1901. ENACTMENT OF MULTISTATE WESTERN STATES TRANSPORTATION AGREEMENT. The ~~Multistate Highway Western States Transportation Agreement~~ is hereby enacted into law and entered into with all other jurisdictions legally joining therein as follows:

MULTISTATE HIGHWAY
WESTERN STATES TRANSPORTATION AGREEMENT

Pursuant to and in conformity with the laws of their respective jurisdictions, the participating jurisdictions, acting by and through their officials lawfully authorized to execute this agreement, do mutually agree as follows:

ARTICLE I

Findings and Purposes

SECTION 1. Findings. The participating jurisdictions find that:

(a) The expanding regional economy depends on expanding transportation capacity;

(b) Highway transportation is the major mode for movement of people and goods in the western states;

(c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel

consumption and related transportation costs, which are necessary to permit increased productivity;

(d) A number of western states have already, to the fullest extent possible, adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards; and

(e) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

SECTION 2. Purposes. The purposes of this agreement are to:

(a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(b) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

(f) Facilitate communication between legislators, state transportation administrators and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

ARTICLE II

Definitions

SECTION 1. As used in this agreement:

(a) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.

(b) "Designated representative" means a legislator or other person authorized under article X to represent the jurisdiction.

(c) "Jurisdiction" means a state of the United States or the District of Columbia.

(d) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two (2) or more participating jurisdictions.

ARTICLE III

General Provisions

SECTION 1. Qualifications for Membership. Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. Vehicle Laws and Regulations. This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. Interpretation. The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. Amendment. This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, article III. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. Restrictions, Conditions or Limitations. Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. Additional Jurisdictions. Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV

Cooperating Committee

SECTION 1. Each participating jurisdiction shall have two (2) designated representatives. Pursuant to section 2, article III, the designated representatives of the participating jurisdictions shall constitute the cooperating committee which shall have the power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.

(b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their collective judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.

(d) Recommend improvements in highway operations, in vehicular safety, and in state administration of highway transportation laws.

(e) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote only. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

ARTICLE V

Objectives of the Participating Jurisdictions

SECTION 1. Objectives. The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation of a vehicle or combination of vehicles in regular operation on all state highways, except

those determined through engineering evaluation to be inadequate, with a single-axle weight not in excess of 20,000 pounds, a tandem-axle weight not in excess of 34,000 pounds, and a gross vehicle or combination weight not in excess of that resulting from application of the formula:

$$W = 500 ((LN/N-1) + 12N + 36)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.
 L = distance in feet between the extremes of any group of two or more consecutive axles.
 N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that the operation of a vehicle or combination of vehicles in interstate commerce according to the provisions of subsection (a) of this section be authorized under special permit authority by each participating jurisdiction for vehicle combinations in excess of statutory weight of 80,000 pounds and/or statutory lengths.

(c) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(d) The cooperating committee may recommend that the participating jurisdictions jointly secure congressional approval of this agreement and, specifically of the vehicle size and weight standards set forth in subsection (a) of this section.

(e) It is the further objective of the participating jurisdictions to:

- (1) Establish transportation laws and regulations to meet regional needs and to promote an efficient, safe and compatible transportation network;
- (2) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways, consistent with and in recognition of principles of highway safety;
- (3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs and enhance air quality through the uniform application of state vehicle regulations and laws.

ARTICLE VI

Entry Into Force and Withdrawal

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section §7, article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by cancelling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE VII

Construction and Severability

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII

Filing of Documents

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

ARTICLE IX

Funding

SECTION 1. Funds for the administration of this agreement, including participation in the cooperating committee and the actual expenses of the designated representatives, shall be budgeted or expensed as determined appropriate.

ARTICLE X

Selection of Designated Representatives

SECTION 1. The process for selecting the designated representatives to the cooperating committee shall be established by law under this section.

SECTION 2. The persons authorized to represent the state of Idaho as the designated representatives to the committee shall be the chairman of the senate transportation committee and the chairman of the house transportation and defense committee, or a legislator or a state agency official that the chairman may assign.

SECTION 3. The transportation chairman in each house shall also designate one (1) alternate designated representative who shall also be a legislator or state agency official to serve in his absence.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 2012.

CHAPTER 256
(S.B. No. 1271)

AN ACT

RELATING TO THE DEPARTMENT OF LANDS; AMENDING CHAPTER 3, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-302, IDAHO CODE, TO DEFINE A TERM, TO REQUIRE APPLICANTS FOR STATE GRAZING LEASES TO SUBMIT GRAZING MANAGEMENT PROPOSALS, TO PROVIDE REQUIREMENTS FOR SUCH PROPOSALS AND TO PROVIDE FOR CERTAIN EXCEPTIONS.

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

SECTION 1. That Chapter 3, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-302, Idaho Code, and to read as follows:

58-302. GRAZING MANAGEMENT PLANS. (1) As used in this section, "grazing management plan" means a written agreement between the lessee and the department of lands, or between the lessee and another public agency and approved by the department, designed to meet the resource objectives identified by the department, including any criteria provided by the department in rule.

(2) All applicants for state grazing leases shall submit a grazing management proposal that addresses resource concerns, as identified by the department, no later than the deadline to apply for the lease.

(3) Provided however, a current lessee with a grazing management plan in place is not required to submit a grazing management proposal pursuant to this section unless:

- (a) The department of lands makes a written request for a new grazing management proposal from the current lessee; or
- (b) The current lessee desires to modify the existing grazing management plan, in which case a written request with the modified management proposal must be submitted no later than the deadline to apply for the lease.

Approved April 3, 2012.

CHAPTER 257
(S.B. No. 1279)

AN ACT

RELATING TO LIABILITY OF LEGAL GUARDIANS FOR THEIR WARD; AMENDING SECTION 8-705, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 16-1628, IDAHO CODE, TO REMOVE REFERENCE TO A GUARDIAN; AMENDING SECTION 18-6711A, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 18-8409, IDAHO CODE, TO REMOVE REFERENCE TO A GUARDIAN; AMENDING SECTION 20-501, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 20-520, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 20-524, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN AND TO PROVIDE REFERENCE TO ANOTHER LEGALLY OBLIGATED PERSON; AMENDING SECTION 32-1301, IDAHO CODE, TO CLARIFY THAT A GUARDIAN MUST HAVE LEGAL AND PHYSICAL CUSTODY TO BE LIABLE FOR FAILURE TO SUPERVISE A CHILD; AMENDING SECTION 33-1406, IDAHO CODE, TO REMOVE REFERENCE TO A GUARDIAN; AMENDING SECTION 39-2611,

IDAHO CODE, TO REMOVE REFERENCE TO GUARDIANS; AMENDING SECTION 39-7504, IDAHO CODE, TO REMOVE REFERENCE TO GUARDIANS; AND AMENDING SECTION 48-702, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 8-705, Idaho Code, be, and the same is hereby amended to read as follows:

8-705. WAGE ASSIGNMENT FOR SUPPORT AND CARE OF DELINQUENT CHILD. In any proceeding where the court has ordered a parent, ~~legal guardian~~, or custodian to pay any amount for the care, support or maintenance of a child adjudged to be within the purview of chapter 5, title 20, Idaho Code, and through the adjudication has rendered a liability upon the parent, ~~legal guardian~~ or custodian to pay damages or to pay for the child's support and care, the following procedure may be utilized for collection. The court may order the parent, ~~legal guardian~~ or custodian to assign a sum as the court may determine to be equitable or as may otherwise be provided by statute or contract to the county clerk, probation officer or other office of the court or county officer designated by the court to receive such payment. The assignment shall be that portion of salary or wages of the parent, ~~legal guardian~~ or custodian the court deems would be due in the future to apply on the amount ordered by the court for the care, support or maintenance of the delinquent child or for breach of contract caused by the child's delinquency. The order shall be binding upon an employer and until further order of the court. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. All sums collected pursuant to the provisions of this section shall be remitted as may be provided by law.

SECTION 2. That Section 16-1628, Idaho Code, be, and the same is hereby amended to read as follows:

16-1628. SUPPORT OF COMMITTED CHILD. (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.

(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.

(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 3. 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 one thousand dollars (\$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 sustained 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 4. That Section 18-8409, Idaho Code, be, and the same is hereby amended to read as follows:

18-8409. FAILURE TO REGISTER, PENALTIES. (1) A juvenile sex offender who fails to register or provide notification of a change of name or address is guilty of a misdemeanor.

(2) A parent ~~or guardian~~ of a juvenile sex offender commits the misdemeanor offense of failure to supervise a child if the offender fails to register or provide notification of a change of name or address as required by this section. A person convicted of this offense is subject to a fine of not more than one thousand dollars (\$1,000).

SECTION 5. That Section 20-501, Idaho Code, be, and the same is hereby amended to read as follows:

20-501. LEGISLATIVE INTENT. It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile accountable for his actions, and assist the juvenile in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior. It is the further intent of the legislature that the parents ~~or legal guardians~~ of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties for juveniles not committed to the custody of the department of juvenile corrections.

The following is a brief description of what the legislature intends to become the components of Idaho's juvenile corrections system:

Probation. Probation officers would have twenty-four (24) hour on call responsibility for juveniles and would monitor their activities on a contin-

ual basis. Probation officers would be responsible for assisting juveniles and their families in accessing counseling or treatment resources, close supervision of juveniles' activities, supervision of restitution and coordination of other services provided to juveniles. Juvenile offenders ordered into the custody of the department of juvenile corrections would be monitored by a county probation officer.

Day treatment. Day treatment programs would be time limited nonresidential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of juveniles through daily contact and by counseling juveniles regarding employment, education, courts, family and life skills. Nonresidential alcohol and drug programs would provide outpatient assessment and counseling for juveniles with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to juveniles in close proximity to their families and their community. It is intended that these programs would strengthen the juvenile's relationship with family, engender a commitment to school and employment, promote the development of competency and life skills and help juveniles generalize appropriate behavior into their environment.

Observation and assessment. Regional observation and assessment centers would be provided, either directly or on a contract basis, to conduct observation and assessment of the juvenile in a short-term residential experience. It is intended that these programs would maintain standardized home and daily routines with intensive daily programming.

Secure facilities. Secure facilities would provide secure confinement, discipline, education and treatment of the most seriously delinquent juveniles. Programs at the secure facilities would be designed to help juveniles recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and making restitution to victims through community service or other restitution programs.

It is the further intent of the legislature that the primary purpose of this act is to provide a continuum of programs which emphasize the juvenile offender's accountability for his actions while assisting him in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety. These services and programs will individualize treatment and control of the juvenile offender for the benefit of the juvenile and the protection of society. It is legislative intent that the department of juvenile corrections be operated within the framework of the following principles to accomplish this mission:

- (1) Provide humane, disciplined confinement to a juvenile who presents a danger to the community.

- (2) Strengthen opportunities for the juvenile's development of competency and life skills by expanding the juvenile's access to applicable programs and community resources.

- (3) Hold juveniles accountable for their delinquent behavior through such means as victim restitution, community service programs and the sharing of correctional costs.

- (4) Invoke the participation of the juvenile offender's parent or legal guardian in assisting the juvenile to recognize and accept responsibility for his delinquent or other antisocial behavior and hold the parent or ~~legal~~ guardian accountable, where appropriate, through the payment of detention costs and restitution to victims and through attendance at programs for the development of positive parenting skills designed to promote a functional relationship between the juvenile and his family.

- (5) Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

(6) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

(7) Assist counties in developing meaningful programs for juveniles who have come into the juvenile corrections system but who have not been committed to the custody of the department of juvenile corrections.

(8) Provide programs to increase public awareness of the mission of the juvenile corrections system and encourage public participation in developing an effective juvenile corrections system designed to aid in reducing juvenile crime in this state.

(9) Develop and maintain a statewide juvenile offender information system.

SECTION 6. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

(e) Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No juvenile who is found to come within the purview of the act for

the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile is an habitual status offender;

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

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

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

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

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

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

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

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

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

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

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

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required;

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

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

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

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise. The clerk of the district court, with the approval of the administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of the restitution.

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

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

SECTION 7. That Section 20-524, Idaho Code, be, and the same is hereby amended to read as follows:

20-524. SUPPORT OF JUVENILE -- REIMBURSEMENT FOR COSTS INCURRED. (1) Whenever a juvenile is placed by the court in custody other than that of the juvenile's parents, ~~guardian or custodian~~, after due notice to the parent, ~~guardian~~ or other persons legally obligated to care for and support the juvenile, 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 juvenile. 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.

(2) If the juvenile is detained, the court may order that the parents ~~or other legal guardian~~ of the juvenile or other legally obligated person contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the juvenile is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

(3) 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.

(4) 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 8. That Section 32-1301, Idaho Code, be, and the same is hereby amended to read as follows:

32-1301. CITIES AND COUNTIES MAY ENACT AND ENFORCE ORDINANCES FOR FAILURE TO SUPERVISE A CHILD. (1) Any county or city may by ordinance establish and enforce the offense of failure to supervise a child as provided in this section.

(2) The ordinance may provide that a person who is the parent, lawful guardian with legal and physical custody or other person, except a foster parent, lawfully charged with the care or custody of a child under sixteen (16) years of age commits the offense of failure to supervise a child if the child:

(a) Commits an act bringing the child within the purview of the juvenile corrections act, chapter 5, title 20, Idaho Code, or commits a crime for which the child is required to be tried as an adult, or for which jurisdiction under the juvenile corrections act is subject to waiver pursuant to chapter 5, title 20, Idaho Code; or

(b) Fails to attend school or is not comparably instructed, as provided in section 33-202, Idaho Code; or

(c) Violates a curfew law of the county or city enacting the ordinance authorized under this section.

(3) (a) A person shall not be subject to prosecution under an ordinance containing the provisions of subsection (2) (a) of this section if the person:

(i) Is the victim of the act bringing the child within the purview of the provisions of chapter 5, title 20, Idaho Code; or

(ii) Reported the act of the child to the local law enforcement agency, the juvenile court, the department of health and welfare or other appropriate authority as provided in the ordinance;

(b) A person shall not be subject to prosecution under an ordinance containing the provisions of subsection (2) (a), (b) or (c) of this section if the person shows to the satisfaction of the court that the person took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.

(4) Except as provided in subsection (5) of this section, the ordinance may provide that in a prosecution for failure to supervise a child the court may order the person to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code, provided that the restitution ordered to be paid shall not exceed twenty-five hundred dollars (\$2,500).

(5) The ordinance may provide that when a child commits any of the acts set forth in subsection (2) of this section, the parent, lawful guardian with legal and physical custody or other person lawfully charged with the care or custody of the child may be charged, by citation or summons, with the offense of failure to supervise a child, unless the person with lawful custody is a foster parent. Upon a first offense, the officer may serve a copy of the ordinance upon the parent, lawful guardian with legal and physical custody or other person, other than a foster parent, as a warning of the penalties. This service shall be documented by the officer.

(6) An ordinance enacted pursuant to this section shall provide that if a person is found guilty or pleads guilty to the offense of failure to supervise a child, the person shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000). The ordinance may provide that, in lieu of imposing a fine, the court, with the consent of the person, may order the person to complete parenting classes or undertake other treatment or counseling, as approved by the court, and upon the person's completion of the classes, treatment or counseling to the satisfaction of the court, the court may discharge the person or if the person fails to complete the program to the satisfaction of the court, the court may impose the penalty provided in this section. The ordinance may provide that any person violating the orders of the court entered under the ordinance shall be subject to contempt proceedings in accordance with chapter 6, title 7, Idaho Code, in addition to any other penalties authorized pursuant to this section.

(7) The ordinance may provide that the juvenile court has jurisdiction over a first offense of failing to supervise a child and that any subsequent offense shall be subject to the jurisdiction of the magistrate's division of the district court, or may provide that any offense of failing to supervise the child shall be subject to the jurisdiction of the juvenile court or to the jurisdiction of the magistrate's division of the district court.

(8) Conviction of a person under an ordinance enacted under the authority of this section shall not preclude any other action or proceedings against the person which may be undertaken pursuant to the provisions of chapter 5, title 20, Idaho Code, or other provisions of law.

SECTION 9. That Section 33-1406, Idaho Code, be, and the same is hereby amended to read as follows:

33-1406. **BILLS OF TUITION.** Bills of tuition for nonresident pupils shall be rendered by each creditor district and for nonresident pupils attending any school of the creditor district under the provisions of section 33-1403 or 33-1404, Idaho Code, the bill of tuition shall be submitted to the home district of such pupils. In all other cases, the creditor district may submit to the parent ~~or guardian~~ of any nonresident pupil attending school

in its district a bill of tuition of such pupil, and such parent ~~or guardian~~ shall be liable for the payment of said tuition, if so billed. Tuition reimbursement for nonresident pupils who are placed by court order under provisions of the Idaho juvenile corrections or child protective acts may be obtained by the creditor district through procedures established in section 33-1002, Idaho Code, for nonresident tuition-equivalency allowance.

Each bill of tuition submitted to a home district shall show the serial number of the tuition certificate last issued to the creditor district by the state department of education and shall show also the number of pupils for whom tuition is charged, which charge shall be as shown by the said tuition certificate.

Bills of tuition, if submitted other than annually, shall be apportioned according to the number of school months for which any such bill is applicable. A fraction of a school month shall be deemed a school month.

SECTION 10. That Section 39-2611, Idaho Code, be, and the same is hereby amended to read as follows:

39-2611. ~~LIABILITY OF PARENTS OR GUARDIANS.~~ The parents, ~~guardians~~ or other persons having custody or control of a minor shall be liable for damage caused by the use of fireworks by the minor.

SECTION 11. That Section 39-7504, Idaho Code, be, and the same is hereby amended to read as follows:

39-7504. ~~FINANCIAL RESPONSIBILITY OF PARENTS AND GUARDIANS OF ESTATE.~~ The compact administrator shall take appropriate action pursuant to existing law to effect the recovery from relevant parents ~~or guardians~~ of estate, at the option of said administrator, of any and all costs expended by the state, or any of its subdivisions, with respect to Idaho children handled under said compact.

SECTION 12. That Section 48-702, Idaho Code, be, and the same is hereby amended to read as follows:

48-702. ~~LIABILITY FOR ACTS OF MINORS.~~ The parent ~~or legal guardian,~~ having legal custody, of a minor who knowingly removes merchandise from a merchant's premises without paying therefor, or knowingly conceals merchandise to avoid paying therefor, or knowingly commits retail theft, shall be civilly liable to the merchant for the retail value of the merchandise, plus damages of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250), costs of suit and reasonable attorney's¹ fees. Recovery under this section is not limited by any other provision of law which limits the liability of a parent ~~or legal guardian~~ for the tortious conduct of a minor. The liability of parents ~~or legal guardian~~ and of the minor under this chapter is joint and several.

A parent ~~or guardian~~ not having legal custody of a minor shall not be liable for the conduct of the minor proscribed by this act.

Approved April 3, 2012.

CHAPTER 258
(S.B. No. 1280)

AN ACT

RELATING TO THE RESPIRATORY CARE PRACTICE ACT; AMENDING SECTION 54-4313, IDAHO CODE, TO REVISE THE LICENSURE BOARD MEMBER COMPENSATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-4313, Idaho Code, be, and the same is hereby amended to read as follows:

54-4313. LICENSURE BOARD. (1) The licensure board shall consist of five (5) members appointed by the board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being a licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist, and all of whom shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. These members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) such member shall be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first board, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the national board for respiratory care, inc. (NBRC) and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the licensure board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services.

(2) The board, within sixty (60) days following the effective date of this chapter, shall appoint two (2) licensure board members for a term of one (1) year; two (2) for a term of two (2) years; and one (1) for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) The two (2) members of the licensure board who shall be licensed respiratory care practitioners shall be selected by the board of medicine after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho society of respiratory care or other interested associations. The member of the licensure board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the board of medicine after considering a list of three (3) qualified applicants submitted by the Idaho sleep disorder association or other interested associations. The remaining two (2) public members shall be selected by the board of medicine which may solicit nominations of qualified applicants submitted by the Idaho society for respiratory care, the Idaho sleep disorder association or other interested associations or individuals.

(4) The licensure board shall within sixty (60) days after the effective date of this chapter, and annually thereafter, hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) licensure board members.

(5) Each member of the licensure board shall be compensated as provided in section 59-509(hn), Idaho Code.

Approved April 3, 2012.

CHAPTER 259
(S.B. No. 1286)

AN ACT

RELATING TO CHARITABLE BINGO AND RAFFLES; AMENDING SECTION 67-7709, IDAHO CODE, TO REVISE THE ALLOWED EXPENDITURE PERCENTAGES FOR CHARITABLE BINGO LICENSEES; AND AMENDING SECTION 67-7710, IDAHO CODE, TO REVISE THE ALLOWED EXPENDITURE PERCENTAGE FOR CHARITABLE RAFFLE LICENSEES.

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

SECTION 1. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS.

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

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

(c) Any proceeds available in a bingo account after payment of the expenses set forth in paragraph (1) (a) of this subsection shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the

prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. The licensed bingo operation must maintain records for three (3) years on forms prescribed by the commission or pursuant to rules prescribed by the commission showing the charitable activities to which the proceeds described in this paragraph are applied. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection.

(d) (i) All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: ~~not more than sixty-five percent (65%) of the gross revenues shall be used for prizes in the charitable bingo game,~~ not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection, and ~~not more than fifteen~~ a maximum of eighteen percent (15~~8~~)% of the gross revenues shall may 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 used for prizes on the bingo game.~~ An organization requesting an exemption from the disbursement percentages provided in this paragraph for administrative costs may shall request such an exemption from the state lottery commission.

(ii) Two hundred fifty dollars (\$250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such wages shall be paid on an hourly basis, shall be directly related to the preparation, conduct of and cleaning following a bingo session, and shall be paid out of the organization's separate bank account unless the director of lottery security has given prior written permission to pay wages out of another account. Such wages shall be part of the fifteen eighteen percent (15~~8~~)% gross revenues used for administrative expenses.

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

- (a) The number of bingo sessions conducted or sponsored by the licensed organization;
- (b) The location and date at which each bingo session was conducted;
- (c) The gross revenues of each bingo session;
- (d) The fair market value of any prize given at each bingo session;
- (e) The number of individual players participating in each session;
- (f) The number of cards played in each session;
- (g) The amount paid in prizes at each session;
- (h) The amount paid to the charitable organization;
- (i) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and
- (j) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars (\$100) and the disbursements of

funds to charitable activities, including the identity of the charity and/or purpose and use of the disbursements by the charity.

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

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

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

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

SECTION 2. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES -- 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 eighty percent (980%) of the net proceeds of a raffle shall be used by the charitable or nonprofit organization for charitable, religious, educational, civic or other nonprofit charitable 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 3, 2012.

CHAPTER 260
(S.B. No. 1293)

AN ACT

RELATING TO FEDERAL FOOD STAMPS; AMENDING SECTION 56-227D, IDAHO CODE, TO REVISE THE FELONY THRESHOLD FOR TRAFFICKING FOOD STAMPS.

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

SECTION 1. That Section 56-227D, Idaho Code, be, and the same is hereby amended to read as follows:

56-227D. FEDERAL FOOD STAMPS, ALSO KNOWN AS SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM -- UNAUTHORIZED USE -- EXCEPTION -- DEFINITION. (1) It is a misdemeanor for any person to buy, receive, sell, give away, dispose of, exchange or barter any federal food stamp benefits of a value of less than one hundred fifty dollars (\$1500) or less, except for the eligible foods for which they are issued.

(2) It is a felony for any person to buy, receive, sell, give away, dispose of, exchange or barter any federal food stamp benefits of a value exceeding of one hundred fifty dollars (\$1500) or more, except for the eligible foods for which they are issued.

(3) This section does not apply to any person buying, receiving, selling, giving away, disposing of, exchanging or bartering any federal food stamp benefits subsequent to the redemption of such stamps in the manner provided by state or federal law.

(4) As used in this section, federal food stamp benefits refers to food stamp benefits issued in any form by the United States department of agriculture or its duly authorized agent for the sole purpose of purchasing food.

(5) This section shall be enforced by the director of the department of health and welfare in cooperation with local law enforcement and prosecuting agencies. Such enforcement shall not be the responsibility of the medicaid fraud control unit as provided in section 56-226, Idaho Code.

Approved April 3, 2012.

CHAPTER 261
(S.B. No. 1295, As Amended)

AN ACT

RELATING TO REGULATION AND LICENSURE OF MASSAGE THERAPISTS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 40, TITLE 54, IDAHO CODE, TO PROVIDE PURPOSE, TO DEFINE TERMS, TO PROVIDE EXEMPTIONS, TO PROVIDE PROHIBITIONS, TO REQUIRE LICENSURE, TO ESTABLISH THE BOARD OF MASSAGE THERAPY AND TO PROVIDE FOR MEMBERSHIP, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO PROVIDE FEES, TO PROVIDE REQUIREMENTS FOR ISSUANCE OF A LICENSE, TO PROVIDE FOR ENDORSEMENT LICENSURE, TO PROVIDE FOR LICENSE RENEWAL, TO PROVIDE FOR LICENSING OF EXISTING MASSAGE PRACTITIONERS, TO PROVIDE FOR DISCIPLINARY ACTION, TO PROVIDE FOR ENFORCEMENT AND PENALTIES AND TO PROVIDE FOR PREEMPTION OF LOCAL REGULATION; AND PROVIDING EFFECTIVE DATES.

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 40, Title 54, Idaho Code, and to read as follows:

CHAPTER 40
MASSAGE THERAPISTS

54-4001. PURPOSE. By the adoption of this chapter, it is the intent of the legislature to protect the public health, safety and welfare, and to provide for state administrative supervision, licensure, regulation and disciplinary procedures of every person providing massage therapy who meets and maintains the standards of practice and code of ethics as adopted by the board and is licensed under the provisions of this chapter, unless otherwise exempted herein.

54-4002. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Advertise" means, but is not limited to, the issuing or causing to be distributed of any card, sign, direct mail piece or other device or causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine or directory, or announcement on radio or announcement or display on television, computer network or electronic or telephonic medium.

(2) "Board" means the Idaho state board of massage therapy created pursuant to section 54-4006, Idaho Code.

(3) "Compensation" means the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value.

(4) "Massage school" means a massage therapy educational program that is registered by the state board of education in accordance with chapter 24, title 33, Idaho Code, or comparable authority in another state.

(5) "Massage therapist" means a person who is licensed under this chapter and who engages in the practice of massage therapy.

(6) "Massage therapy" means the care and services provided by a massage therapist.

(7) "Practice of massage therapy" means the application of a system of structured touch, pressure, movement and holding of the soft tissues of the human body. The application may include:

(a) Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement;

(b) Complementary methods, including the external application of water, heat, cold, lubricants and other topical preparations; or

(c) The use of mechanical devices that mimic or enhance actions that may be done by the hands.

54-4003. EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which they are licensed or regulated.

(2) Nothing in this chapter shall prohibit:

(a) The practice of massage therapy by a person employed by the government of the United States while the person is engaged in the performance of duties prescribed by the laws and regulations of the United States.

(b) The practice of massage therapy by persons duly licensed, registered or certified in another state, territory, the District of Columbia or a foreign country when incidentally called into this state to teach a course related to massage therapy or to consult with a person licensed under this chapter.

(c) Students enrolled in a board-approved course of instruction while completing a clinical requirement or supervised massage therapy fieldwork experience for graduation performed under the supervision of a person licensed under this chapter, provided the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation for services performed.

(d) Nothing in this chapter shall be construed to prevent or restrict the practice of any person in this state who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged within the scope of practice of a profession, provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to, the Feldenkrais method® of somatic education, the Trager approach® to movement education, body-mind centering®, Ortho-Bionomy® and craniosacral therapy.

(e) Persons who restrict their practice to manipulation of the soft tissues of the human body to the hands, feet or ears and do not hold themselves out to be massage therapists or to do massage or massage therapy.

(f) Nothing in this chapter shall be construed to prevent or restrict the practice of any person in this state who uses touch to affect the energy systems, acupoints or qi meridians, channels of energy, of the human body while engaged within the scope of practice of a profession, provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited

to, polarity, polarity therapy, polarity bodywork therapy, Asian bodywork therapy, acupressure, jin shin do®, qi gong, reiki and shiatsu.

(g) Persons engaged in the profession of structural integration, restoring postural balance and functional ease by integrating the body in gravity based on a system of fascial manipulation, awareness, and education developed by Dr. Ida P. Rolf, provided their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to: Rolfing® structural integration, the guild for structural integration, Hellerwork®.

54-4004. PROHIBITIONS. Massage therapists shall not perform any of the following:

- (1) Diagnosis of injury, illness or disease;
- (2) Chiropractic adjustment or skeletal manipulative procedures or any other procedures as defined in section 54-704, Idaho Code, except as allowed in section 54-4002 (7), Idaho Code;
- (3) Therapeutic exercise, medical or other therapeutic modalities including, but not limited to, the use of medically classified therapeutic devices, mechanical traction, laser and light therapies, electrical stimulation or application of ultrasound; and
- (4) Dispensation of, application of or issuance of prescriptions for pharmaceutical agents.

54-4005. LICENSE REQUIRED. (1) A person shall not practice massage therapy for compensation or hold himself or herself out to others as a massage therapist without first receiving from the board a license to engage in that practice.

(2) A person holds himself or herself out to others as a massage therapist when the person adopts or uses any title or description including "massage therapist," "massagist," "massotherapist," "myotherapist," "body therapist," "massage technician," "massage practitioner" or any derivation of those terms that implies this practice.

(3) It shall be unlawful for any person who is not a licensed massage therapist under this chapter to advertise using the term "massage therapist." Any person who holds a license to practice as a massage therapist in this state may use the title "licensed massage therapist." No other person shall assume this title or use an abbreviation or any other words, letters, signs or figures to indicate that the person using the title is a licensed massage therapist.

54-4006. BOARD OF MASSAGE THERAPY. (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, the board of massage therapy. The members thereof shall be appointed by the governor and serve at the pleasure of the governor.

(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 the consumers of massage therapy services. At no time shall more than one (1) board member be an owner of, an instructor of, or otherwise affiliated with a board-approved course of instruction or any other massage therapy school or course of instruction.

(3) Professional massage therapy associations and/or any resident of the state of Idaho may provide nominations to the governor.

(4) All members of the board shall be residents of the state of Idaho for the duration of their appointment and shall have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial four (4) massage therapist members of the board shall be persons with at least three (3) years of experience in the practice of massage therapy who become licensed pursuant to this chapter.

(6) The initial board shall be appointed for staggered terms, the longest of which shall not exceed three (3) years. After the initial appointments, all terms shall be for three (3) years, and a member may be reappointed for a second term. No member shall serve more than two (2) terms. In the event of death, resignation or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board, within thirty (30) days after its initial 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 chairman or at the written request of any three (3) members of the board. The board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the board shall constitute a quorum.

(8) Each member of the board shall be compensated as provided in section 59-509(n), Idaho Code.

54-4007. 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 massage therapy in this state, provided however, that the scope of practice may not exceed that defined in section 54-4002(7), Idaho Code;

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

(3) Promulgate such rules as are necessary for the administration of this chapter, including standards of professional conduct;

(4) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of papers at such investigations or hearings;

(5) Collect fees and other funds as prescribed by this chapter;

(6) Contract and pursue other matters lawful in this state relating to massage therapy;

(7) Provide such other services and perform such other functions as are necessary and desirable to fulfill its purposes;

(8) Establish requirements for renewal of license and approval of continuing education courses as set forth in section 67-2614, Idaho Code; and

(9) Establish rules for the approval of massage therapy entry-level educational standards but must remain consistent with curriculum requirements in this chapter, or rules promulgated pursuant thereto.

The registration of massage schools shall remain with the state board of education in accordance with chapter 24, title 33, Idaho Code.

54-4008. 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 board, by rule, may impose fees not to exceed two hundred dollars (\$200) annually per fee to provide for the administration of this section including, but not limited to, the following:

(a) Original license fee;

(b) Application fee;

(c) License renewal fee;

(d) License by endorsement;

(e) Duplicate license; and

(f) Reinstatement fee.

54-4009. REQUIREMENTS FOR ISSUANCE OF LICENSE. Upon application to the board and the payment of the required fees, an applicant may be licensed as a massage therapist if the applicant meets all the requirements of this chapter and provides documentation acceptable to the board that he or she:

- (1) Has obtained a high school diploma or equivalent;
- (2) Is eighteen (18) years of age or older;
- (3) Is of good moral character;
- (4) Has successfully completed a massage program registered pursuant to chapter 24, title 33, Idaho Code, or a comparable authority in another state that consists of the minimum of five hundred (500) in-class supervised hours of coursework and clinic work; and
- (5) Has successfully passed a nationally recognized competency examination in massage therapy that is approved by the board. The passage of this exam may have occurred prior to the effective date of this chapter.

54-4010. ENDORSEMENT LICENSURE. The board may grant a license without examination to any person who, at the time of application, is licensed or certified in good standing by a board of massage therapy of another state, provided the requirements for such certification or licensure are substantially equivalent to the requirements of this chapter, and upon payment of a fee to be determined by the board.

54-4011. LICENSE RENEWAL. (1) A license shall be issued and renewed in accordance with section 67-2614, Idaho Code.

54-4012. LICENSING OF EXISTING MASSAGE PRACTITIONERS. Until July 1, 2014, the board may issue a license to any individual who meets one (1) of the following requirements:

- (1) He or she has completed a minimum of five hundred (500) hours of supervised classroom and hands-on instruction relating to massage therapy;
- (2) He or she has completed at least three hundred (300) hours of formal training in massage therapy as determined by the board and has practiced massage therapy for at least five (5) hours per week on average for at least three (3) years prior to the date of application;
- (3) He or she has completed at least two hundred (200) hours of formal training in massage therapy as determined by the board and has practiced massage therapy for at least five (5) hours per week on average for at least five (5) years prior to the date of application;
- (4) He or she has been an active member in good standing as a massage therapist for a period of at least twelve (12) months of a national professional massage association/organization that offers professional liability insurance; or
- (5) He or she has successfully passed an examination meeting the requirements of section 54-4009(5), Idaho Code. The passage of this examination may have occurred before the effective date of this section.

54-4013. DISCIPLINARY ACTION. The board may refuse to issue or renew or otherwise discipline a license holder for any of the following:

- (1) The employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license;
- (2) Practicing as a massage therapist when physical or mental abilities are impaired as determined by the board;
- (3) Conviction of a felony, a crime involving moral turpitude or a crime under any municipal, state or federal narcotic or controlled substance law, provided that the board has taken into consideration the rehabilitation of the applicant or licensee and other mitigating circumstances;
- (4) Having been adjudged mentally incompetent by a court of competent jurisdiction;

- (5) Engaging in any act or practice in violation of any of the provisions of this chapter or any of the rules adopted by the board, or aiding, abetting or assisting any other person in such a violation;
- (6) The commission of an act of gross negligence or incompetence;
- (7) Practice without a valid license;
- (8) Engaging in any lewd, indecent, obscene or unlawful behavior with a client;
- (9) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals or other business professionals;
- (10) Having had a license revoked or suspended, other disciplinary action taken or an application for licensure 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 failing to divulge such information when requested by the board;
- (11) A violation of the code of ethics or standards of practice as adopted by the board; and
- (12) Failure to comply with an order issued by the board.

54-4014. ENFORCEMENT -- PENALTIES. A person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor. The board may seek an injunction against any person who practices massage therapy in violation of the provisions of this chapter.

54-4015. PREEMPTION OF LOCAL REGULATION. Beginning on the date applications for licensure become available pursuant to this chapter, a local unit of government shall not establish or maintain professional licensing requirements for a massage therapist licensed pursuant to this chapter.

SECTION 2. This act shall be in full force and effect on and after July 1, 2012, except that the provisions of Sections 54-4005 and 54-4015, Idaho Code, shall not take effect until July 1, 2013.

Approved April 3, 2012.

CHAPTER 262

(S.B. No. 1303, As Amended in the House)

AN ACT

RELATING TO ANIMALS; AMENDING SECTION 25-3504, IDAHO CODE, TO REMOVE REFERENCE TO MISDEMEANORS; AMENDING SECTION 25-3506, IDAHO CODE, TO PROVIDE FOR VIOLATIONS AND PENALTIES RELATING TO CERTAIN DISPLAYS OF COMBAT BETWEEN GAMECOCKS; AND AMENDING SECTION 25-3520A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PENALTIES FOR VIOLATIONS, TO PROVIDE FOR VIOLATIONS OF SPECIFIED LAW, TO PROVIDE AN EXCEPTION, TO PROVIDE FOR MISDEMEANORS, TO PROVIDE THAT SPECIFIED CONDUCT UNDER CERTAIN CIRCUMSTANCES SHALL CONSTITUTE A FELONY, TO PROVIDE FOR PENALTIES, TO PROVIDE THAT OTHER SPECIFIED CONDUCT SHALL CONSTITUTE MISDEMEANORS, TO REFERENCE PENALTIES, TO PROVIDE THAT EACH PRIOR CONVICTION OR GUILTY PLEA SHALL CONSTITUTE ONE VIOLATION AND TO PROVIDE THAT SPECIFIED PRACTICES ARE NOT ANIMAL CRUELTY.

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

SECTION 1. That Section 25-3504, Idaho Code, be, and the same is hereby amended to read as follows:

25-3504. COMMITTING CRUELTY TO ANIMALS. Every person who is cruel to any animal, or who causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal either as owner or otherwise, subjects any animal to cruelty, ~~is, for every such offense, guilty of a misdemeanor~~ and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

SECTION 2. That Section 25-3506, Idaho Code, be, and the same is hereby amended to read as follows:

25-3506. EXHIBITION OF COCKFIGHTS. (1) Every person who participates in a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

(2) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(a) Any controlled substance listed in section 37-2732C, Idaho Code, is present; and

(b) Any act of gambling, as defined in section 18-3801, Idaho Code, occurs;

is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions in section 25-3520A(3) (a), Idaho Code.

(3) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(a) Gaffs or other artificial or mechanical means are used to enhance pain, inflict injury or to cause death; or

(b) Any substance to enhance activity, aggressiveness or bodily energy has been administered to a gamecock;

is guilty of a misdemeanor for a first violation and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(1), Idaho Code. Any person convicted of a second or subsequent violation of the provisions of this subsection is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(3) (a), Idaho Code. Each prior conviction shall constitute one (1) violation of the provisions of this subsection regardless of the number of counts involved in the conviction.

(4) Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

SECTION 3. That Section 25-3520A, Idaho Code, be, and the same is hereby amended to read as follows:

25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000) or both fine and imprisonment.

(3) (a) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a third or subsequent violation of any of the provisions of this chapter, except certain violations of section 25-3504, Idaho Code, as provided in paragraph (b) of this subsection, within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000) or by both fine and imprisonment.

(b) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation who previously has been found guilty of or has pled guilty to two (2) violations of section 25-3504, Idaho Code, provided the violations were for conduct as defined by section 25-3502(5) (a), Idaho Code, within fifteen (15) years of the first conviction, shall be guilty of a felony and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or not more than nine thousand dollars (\$9,000) or by both fine and imprisonment. All other violations of section 25-3504, Idaho Code, for conduct as defined by any other paragraphs, other than paragraph (a) of section 25-3502(5), Idaho Code, shall constitute misdemeanors and shall be punishable as provided in paragraph (a) of this subsection.

(c) Each prior conviction or guilty plea shall constitute one (1) violation of this chapter regardless of the number of counts involved in the conviction or guilty plea. Practices described in section 25-3514, Idaho Code, are not animal cruelty.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

Approved April 3, 2012.

CHAPTER 263
(S.B. No. 1304)

AN ACT

RELATING TO THE BARLEY COMMISSION; AMENDING SECTION 22-4002, IDAHO CODE, TO PROVIDE THAT COMMISSION MEMBERS SERVE AT THE PLEASURE OF THE GOVERNOR; AMENDING SECTION 22-4005, IDAHO CODE, TO PROVIDE THAT THE EXECUTIVE COMMITTEE OF THE IDAHO STATE WHEAT GROWERS ASSOCIATION, DOING BUSINESS AS THE IDAHO GRAIN PRODUCERS ASSOCIATION, MAY REQUEST THE REMOVAL OF

A COMMISSIONER, TO PROVIDE THAT THE GOVERNOR MAY WITHDRAW A COMMISSIONER'S APPOINTMENT AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 22-4015, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO REVISE THE TAX IMPOSED ON CERTAIN BARLEY.

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

SECTION 1. That Section 22-4002, Idaho Code, be, and the same is hereby amended to read as follows:

22-4002. BARLEY COMMISSION CREATED -- MEMBERS. There is hereby created and established in the department of self-governing agencies the Idaho barley commission to be composed of three (3) grower members appointed by, and serving at the pleasure of, the governor, one (1) from each of the three (3) commission districts referred to in section 22-4004, Idaho Code, who shall be appointed by the governor from a list of names with at least three (3) names for each appointive office for each district submitted to the governor by the Idaho grain producers association, inc., a grain growers' association representing barley growers throughout the state of Idaho, and each shall hold office for the term specified in section 22-4005, Idaho Code. The commissioners appointed by the governor may select a barley industry representative to serve a three (3) year term on the commission. The dean of the college of agriculture, university of Idaho, or his duly authorized representative, shall be an ex officio member of the commission without vote.

SECTION 2. That Section 22-4005, Idaho Code, be, and the same is hereby amended to read as follows:

22-4005. TERM OF MEMBERS. (1) Except as provided in subsection (3) of this section, the term of office of a member of the barley commission shall be three (3) years. Any member of the commission who has served for two (2) full consecutive terms shall not be eligible for reappointment until the expiration of a three (3) year period.

(2) Appointments to fill vacancies shall be for the balance of the unexpired term.

(3) (a) Beginning July 1, 1988, a member from district 1 will be appointed for a full four (4) year term ending in 1992. Subsequent terms will be for three (3) years.

(b) Beginning July 1, 1988, a member from district 2 will be appointed for a full three (3) year term ending in 1991. Subsequent terms will be for three (3) years.

(c) Beginning July 1, 1988, a member from district 3 will be appointed for a full two (2) year term ending in 1990. Subsequent terms will be for three (3) years.

(4) The executive committee of the Idaho state wheat growers association, doing business as the Idaho grain producers association, may request the removal of a commissioner, with or without cause, by a majority vote. Upon receipt of the request, the governor may immediately withdraw the commissioner's appointment.

SECTION 3. That Section 22-4015, Idaho Code, be, and the same is hereby amended to read as follows:

22-4015. IMPOSITION OF TAX. (1) ~~From and after the first day of July, 1997, there is hereby levied and imposed a tax of two up to four cents (24¢)~~ per hundredweight on all barley grown in the state of Idaho or given to Idaho growers under a crop reduction program, and sold or contracted in this state, and each and every crop grown or barley given to growers under a crop reduction program thereafter. The tax shall be due on barley given to growers un-

der a crop reduction program and on barley sold or contracted through commercial channels in this state, regardless of any deduction of the tax on this same barley prior to it being given to the grower. The tax shall be due on or before the time when such barley is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule prescribe, as hereinafter provided, but not later than the 15th day of the month next succeeding the three (3) month period in which such barley is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax shall be levied and assessed to the seller at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the seller at the time of sale or in case of a lienholder who may possess such barley under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the barley is pledged or mortgaged. The tax shall be deducted as provided in this section whether the barley is stored in this or any other state. The commission may, however, permit any federal corporation, such as the commodity credit corporation, to waive its responsibility for the collection of the tax, provided the amount of the tax is one dollar (\$1.00) or less.

(3) The tax constitutes a lien prior to all other liens and encumbrances upon such barley except liens which are declared by operation of a statute of this state.

(4) Any person may request from the commission in writing, within thirty (30) days after payment thereof, a refund of all or any portion of an assessment levied hereunder on barley and paid by him. The commission shall make the refund not later than thirty (30) days after the end of the fiscal year in which the request is made. Refunds shall cease to be available beginning on the first July 1 following completion of a referendum for the continuation or discontinuation of refunds as described in section 22-4019, Idaho Code.

(5) A sale shall be exempt from the tax if a substantially similar tax is imposed by and paid to another state or foreign country and used for similar purposes with respect to the same barley. The commission shall by rule identify what other taxes are substantially similar and used for similar purposes, and shall establish procedures for sellers to prove the payment of the other taxes.

Approved April 3, 2012.

CHAPTER 264
(S.B. No. 1326)

AN ACT

RELATING TO VOCATIONAL REHABILITATION; AMENDING SECTION 33-2307, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 33-2308, IDAHO CODE, TO PROVIDE A TERMINATION DATE FOR THE PROGRAM TO PROVIDE TREATMENT TO PERSONS SUFFERING FROM RENAL DISEASES, TO PROVIDE FOR MEDICAID RESTRICTIONS AND TO CLARIFY WHO MAY RECEIVE CERTAIN ASSISTANCE; REPEALING SECTIONS 33-2307 AND 33-2308, IDAHO CODE, RELATING TO RENAL DISEASES; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-2307, Idaho Code, be, and the same is hereby amended to read as follows:

33-2307. ~~CARE OF~~ TERMINATING FINANCIAL ASSISTANCE FOR PERSONS SUFFERING FROM RENAL DISEASES -- LEGISLATIVE INTENT. It is the intent of the legislature of Idaho to ~~insure the establishment of a~~ terminate the program for the ~~care and treatment~~ financial assistance of persons suffering from chronic renal diseases. This program shall cease to assist persons suffering from chronic renal diseases who require lifesaving care and treatment for such renal disease, but who are unable to pay for such services on a continuing basis effective July 1, 2013. Prior to the stated termination date, individuals currently receiving services through the program shall continue to receive services in accordance with the provisions of this chapter. However, no new individuals, including those individuals on a waiting list to receive services, shall be approved to receive services through the program.

SECTION 2. That Section 33-2308, Idaho Code, be, and the same is hereby amended to read as follows:

33-2308. ~~ESTABLISHMENT~~ TERMINATION OF VOCATIONAL REHABILITATION PROGRAM TO PROVIDE TREATMENT TO PERSONS SUFFERING FROM CHRONIC RENAL DISEASES. The board for professional-technical education shall ~~establish a~~ terminate the vocational rehabilitation program to provide treatment to persons suffering from chronic renal diseases, ~~including dialysis and other medical procedures and techniques which will have a lifesaving effect in the care and treatment of persons suffering from these diseases~~ effective July 1, 2013. The board shall extend financial assistance to persons currently enrolled in the program suffering from chronic renal diseases to assist such persons in obtaining the medical, nursing, pharmaceutical, technical and other services necessary to care for such diseases, including financial assistance for the rental or purchase of home dialysis equipment and supplies, the payment of medical insurance premiums and patient travel expenses through June 30, 2013. ~~Provided that~~ For the duration of the program's existence, the board shall not provide financial assistance to such persons for expenses that are covered by medicare or medicaid. Through June 30, 2013, ~~t~~The board shall promulgate rules that establish standards for determining eligibility for care and treatment financial assistance under this program in order that ~~treatment~~ financial assistance shall be provided to those who are financially unable to obtain such ~~treatment~~ services without causing severe economic imbalance in the family economic unit. ~~Such standards shall be established without reference to maximum or minimum income levels.~~

SECTION 3. That Section 33-2307, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 33-2308, Idaho Code, be, and the same is hereby repealed.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2011. Sections 3 and 4 of this act shall be in full force and effect on and after July 1, 2013.

Approved April 3, 2012.

CHAPTER 265
(S.B. No. 1327)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DELIVERY OF A CONTRACT, TO PROVIDE THAT A DESIGNEE OF THE BOARD MAY DECLARE A POSITION VACANT, TO REVISE PROVISIONS RELATING TO A DISTRICT COURT ORDER AND TO REVISE PROVISIONS RELATING TO THE DISTRICT PLACING AN EMPLOYEE ON INVOLUNTARY UNPAID LEAVE OR UNPAID SUSPENSION; AMENDING SECTION 33-514, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO A REDUCTION IN FORCE, TO REVISE PROVISIONS RELATING TO A CATEGORY B CONTRACT AND TO REVISE A DATE; AMENDING SECTION 33-515, IDAHO CODE, TO REVISE A PROVISION RELATING TO CERTIFICATED EMPLOYEES EMPLOYED PURSUANT TO A GRANDFATHERED RENEWABLE CONTRACT AND TO REVISE PROVISIONS RELATING TO REASSIGNMENT OF AN ADMINISTRATIVE EMPLOYEE; AMENDING SECTION 33-1271, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FINAL OFFERS OF SETTLEMENT, TO REVISE PROVISIONS RELATING TO THE SUBJECT MATTER OF NEGOTIATIONS AND TO PROVIDE FOR RULES; AMENDING SECTION 33-1272, IDAHO CODE, TO REVISE A DEFINITION; DECLARING AN EMERGENCY; AND PROVIDING A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district including any specially chartered district shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon the provisions of section 33-523, Idaho Code, and a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) days after it is delivered to the person. Delivery of a contract may be made only in person, ~~or~~ by certified mail, return receipt requested, or electronically, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail or electronically, delivery must be acknowledged by the return of the certified mail receipt or return electronic receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, or if no designated period of time is set by the board, the default time, the board or a designee of the board may declare the position vacant.

(a) The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. No teacher whose salary is withheld pursuant to this provision shall have the right to any amounts owed, notwithstanding the provisions of the Idaho wage

claims act or any other provision of law. Provided however, that following a determination by the board that a teacher does not hold a teaching certificate valid in this state, no moneys shall be expended or distributed by the state department of education or other appropriate entity to the district for the salary of such teacher.

(b) The board of trustees shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for. For all evaluations conducted after June 30, 2012, at least fifty percent (50%) of the evaluation shall be based on objective measure(s) of growth in student achievement, as determined by the board of trustees.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents, directors, principals and other district administrative employees for a term not to exceed two (2) years. A teacher holding renewable contract status in Idaho pursuant to section 33-515, Idaho Code, immediately previous to such administrative employment shall retain such eligibility. The superintendent, the superintendent's designee, or in a school district that does not employ a superintendent, the board of trustees, shall conduct an annual, written evaluation of each such employee's performance. For all evaluations conducted after June 30, 2012, at least fifty percent (50%) of the evaluation shall be based on objective measure(s) of growth in student achievement, as determined by the board of trustees. In addition, input from the parents and guardians of students shall be considered as a factor in the evaluation of principals and any other school-based administrative employees' evaluation.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through their duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge,

along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

(m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside for any other grounds:

- (i) That the findings of fact are not based on any substantial, competent evidence;
- (ii) That the board of trustees has acted without jurisdiction or in excess of its authority;
- (iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the employee's substantial rights, as that term is used in section 67-5279, Idaho Code, are violated.

6. The board of trustees has the authority to grant any employee's request for a leave of absence. The board may also delegate this authority to the district superintendent or any other individual so designated by the board. If the board delegates this authority to the district superintendent or any other individual, the board shall ratify or nullify the action regarding the request for a leave of absence at the next regularly scheduled board meeting or at a special board meeting should the next regularly scheduled board meeting not be within a period of twenty-one (21) days from the date of such action.

7. The board of trustees has the authority to delegate its authority to the district superintendent or any other individual so designated by the

board. If the board delegates this authority to the district superintendent or any other individual, the board shall ratify or nullify the action of placing an employee on a period of suspension, or involuntary leave of absence at the next regularly scheduled board meeting or at a special board meeting should the next regularly scheduled board meeting not be within a period of twenty-one (21) days from the date of such action.

(a) Should an employee of the district be in a position where there is a court order preventing the employee from being in the presence of minors, ~~or students~~ or any other employee assigned to the same building, the district may place such an employee on a period of involuntary unpaid leave of absence or probation unpaid suspension due to the employee's inability to perform the essential functions of the employee's position.

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 -- WRITTEN EVALUATION. (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) There shall be two (2) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category A contract is a limited one (1) year contract for certificated personnel in the first or greater years of continuous employment with the same school district. 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 July 1. Provided however, that no such decision shall be made until after the completion of the written evaluation required by subsection (4) of this section, ~~unless such decision is being made pursuant to a reduction in force~~. No property rights shall attach to a category A contract and therefore the employee shall not be entitled to a review by the board of trustees of the reasons or decision not to reemploy.

(b) A category B contract is a limited two (2) year contract that may be offered at the sole discretion of the board of trustees for certificated personnel in their fourth or greater year of continuous employment with the same school district. The board of trustees may, at its sole discretion, add an additional year to such a contract upon the expiration of the first year, resulting in a new two (2) year contract. The board of trustees may, at its sole discretion, terminate the second year of a category B contract upon the conclusion of the first year, in the event of a reduction in force. Upon the decision by a board of trustees not to reemploy the person employed on a category B contract ~~for the following year~~ beyond the conclusion of the second year of the contract, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than July 1. 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. Provided however, that no such decision shall be made until after the completion of the written evaluation required by subsection (4) of this section, ~~unless such decision is being made pursuant to a reduction in force~~. No property rights shall attach to a category B contract and therefore the employee shall not be entitled to a formal review by the board of trustees of the reasons or decision not to reemploy.

(3) School districts hiring an employee who has been on renewable contract status as provided in section 33-515, Idaho Code, with another Idaho district shall have the option to immediately grant renewable contract status, or to place the employee on a category A or B contract. A certificated instructional employee hired with previous out-of-state experience shall not be eligible to receive a renewable contract, but may be offered a category A or B contract, based on the employee's years of experience, including out-of-state years of experience as if such years had been worked in Idaho.

(4) There shall be a minimum of one (1) written evaluation in each of the annual contract years of employment, the first portion of which shall be completed before ~~February~~ by March 1 of each year, and shall include input from parents and guardians of students as a factor. A second portion shall be included for all evaluations conducted after June 30, 2012. This second portion shall comprise at least fifty percent (50%) of the total written evaluation and shall be based on objective measure(s) of growth in student achievement. The requirement to provide at least one (1) written evaluation does not exclude additional evaluations that may be performed. No civil action for money damages shall arise for failure to comply with this subsection.

SECTION 3. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) It is the intent of the legislature that after January 31, 2011, no new employment contract between a school district and a certificated employee shall result in the vesting of tenure, continued expectations of employment or property rights in an employment relationship. Therefore, no board of trustees shall have the authority to enter into any renewable contract with any certificated or other employee hired by such district, except as specifically addressed by this section and section 33-514(3), Idaho Code. For any certificated employees already holding renewable contract status with a district as of January 31, 2011, the provisions of this section shall apply.

(2) ~~At least once annually,~~ ~~t~~The performance of each certificated employee employed pursuant to a grandfathered renewable contract shall be evaluated according to criteria and procedures established by the board of trustees in accordance with section 33-514(4), Idaho Code, and general guidelines approved by the state board of education. Except as otherwise provided, the employee employed pursuant to a grandfathered renewable contract shall have the right to the continued automatic renewal of that employee's employment contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the twentieth day of July. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a grandfathered renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the first day of July, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section. These deadlines may not be altered by contract, including any currently existing or future negotiated agreement or master contract entered into pursuant to the professional negotiations act, sections 33-1271 through 33-1276, Idaho Code. Should any master agreement or negotiated contract contain a provision which conflicts with provisions of title 33, Idaho Code, such provision in the master agreement or negotiated contract is hereby declared to be null and void and of no force and effect as of January 31, 2011.

(3) Any contract automatically renewed under the provisions of this section may be renewed for a shorter term, longer term or the same length of term as the length of term stated in the current contract, and at a greater, lesser or equal salary to that stated in the current contract.

(4) Should the board of trustees determine to reassign an administrative employee who, prior to being employed as an administrative employee was employed pursuant to a renewable contract to a nonadministrative position, the board of trustees, at its discretion, shall employ such nonadministrative employee pursuant to a grandfathered renewable contract. Such contract shall be deemed to have continued in place as if the nonadministrative employee was employed by the district pursuant to a renewable contract since January 31, 2011. Such grandfathered renewable contract is subject to the provisions of this section.

(a) If the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the board of trustees. Such a reassignment may include changes in contractual terms, including the changes described in subsection (3) of this section.

(b) Nothing in this section shall prevent the board of trustees from offering a grandfathered renewable contract increasing the salary of any certificated person who is eligible to receive such a contract.

(5) Before a board of trustees can determine not to renew for the unsatisfactory performance of any certificated person who holds a grandfathered renewable contract, such person shall be entitled to a defined period of probation as established by the board, following an observation, evaluation or partial evaluation. This period of probation shall be preceded by a written notice from the board of trustees or its designee with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's grandfathered renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and the consideration and decision to place an employee on probation may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, unless the decision to discharge upon termination has been made as part of a reduction in force, or the decision to immediately discharge has been made pursuant to section 33-515B, Idaho Code.

(7) If the board of trustees determines to change the length of the term stated in the current contract or reduce the salary of a certificated person whose contract is being automatically renewed, nothing herein shall require any due process proceedings or probationary period.

(8) If the board of trustees, for reason of a reduction in force, for the ensuing contract year determines not to renew the grandfathered renewable contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require any probationary period.

SECTION 4. That Section 33-1271, Idaho Code, be, and the same is hereby amended to read as follows:

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall, upon its own initiative or upon the request of a local education organization representing a majority of the professional employees, request negotiations with the local education organization or the designated representative(s) of such organization on behalf of the professional employees employed by the school district and negotiate with such party in good faith on matters related to compensation of professional employees. A request for negotiations may be initiated by either the local education organization or entity seeking to be designated the local education organization, or the board of trustees.

(1) Accurate records or minutes of the proceedings shall be kept and shall be available for public inspection at the office of the affected school district during normal business hours.

(2) Joint ratification of all final offers of settlement shall be made in open meetings and written notice of the ratification activity shall be provided to the parties to the agreement.

(3) As the only subject matter of negotiations is compensation provided through public funding, all negotiation sessions of the parties shall be conducted in open session, with all members of the public able to attend.

(4) The state board of education may promulgate rules to effect the clear, consistent implementation of all laws relating to labor agreements between boards of trustees and professional employees.

SECTION 5. That Section 33-1272, Idaho Code, be, and the same is hereby amended to read as follows:

33-1272. DEFINITIONS. Definition of terms as used in this act:

1. "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that superintendents, supervisors or principals may be excluded from the professional employee group if a negotiation agreement between the board and local education organization so specifies.

2. "Local education organization" means any local district organization duly chosen and selected by a majority of the professional employees as their representative organization for negotiations under this act. For the purposes of this definition, "majority" shall mean one (1) nonadministrative certificated professional employee more than fifty percent (50%) or greater of the nonadministrative professional employees in the district.

3. "Negotiations" means meeting and conferring in good faith in open session by a local board of trustees and the authorized local education organization, or the respective designated representatives of both parties, for the purpose of reaching an agreement related to the compensation of professional employees.

4. "Compensation" means salary and benefits for the professional employee.

5. "Benefits" ~~includes~~ is limited to employee insurance, leave time and sick leave benefits.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

SECTION 7. If Chapter 96, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

CHAPTER 266
(S.B. No. 1328)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1021, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CRITERIA FOR THE DISTRIBUTION OF CERTAIN MONEYS; AMENDING SECTION 33-1626, IDAHO CODE, TO REVISE PROVISIONS RELATING TO POSTSECONDARY CREDITS OF DUAL CREDIT COURSES AND TO REVISE A PROVISION RELATING TO COUNTING AVERAGE DAILY ATTENDANCE; AMENDING SECTION 33-1627, IDAHO CODE, TO ESTABLISH PROVISIONS PROVIDING THAT PARENTS OR GUARDIANS SHALL NOT HAVE THE RIGHT TO ENROLL A STUDENT IN AN ONLINE COURSE WITHOUT CERTAIN PERMISSION AND TO ESTABLISH PROVISIONS RELATING TO ONLINE COURSE PROVIDERS REPORTING AVERAGE DAILY ATTENDANCE; DECLARING AN EMERGENCY AND PROVIDING A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-1021, Idaho Code, be, and the same is hereby amended to read as follows:

33-1021. MATH AND SCIENCE REQUIREMENT. In order to meet state graduation requirements regarding math and science courses, moneys shall be distributed to school districts to defray the cost of providing additional math and science courses beginning in fiscal year 2012. Moneys so distributed shall be used to hire additional high school math and science teachers or to defray costs associated with providing math and science courses to high school students. Moneys shall be distributed to school districts from the moneys appropriated to the educational support program for each regular high school, not including alternative schools, based on the following criteria:

- (1) For each school with enrollment of 99 or less, distribute the equivalent of one ~~ninth and one-quarter~~ (1/91.25) of a classified staff position.
- (2) For each school with enrollment of 100 to 159, distribute the equivalent of one ~~ninth and one-quarter~~ (1-25/9) of a classified staff position.
- (3) For each school with enrollment of 160 to 319, distribute the equivalent of two sevenths (2/7) of a classified staff position.
- (4) For each school with enrollment of 320 to 639, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position.
- (5) For each school with enrollment of 640 or more, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position, and three-quarters (0.75) of a classified staff position.

For the purposes of these school size classifications for regular high schools that serve only grades 10-12, ninth grade students who will attend the regular high school upon matriculating to tenth grade shall be included as enrolled in the regular high school.

SECTION 2. That Section 33-1626, Idaho Code, be, and the same is hereby amended to read as follows:

33-1626. DUAL CREDIT FOR EARLY COMPLETERS. Students completing all state high school graduation requirements at any time prior to the beginning of their final twelfth grade semester or trimester term, except the senior project, by no later than the start of the twelfth grade and any other course that the state board of education requires to be completed during the final year of high school, beginning with the 2011-2012 school year, shall be eligible for up to ~~thirty-six~~ eighteen (36/18) credits per semester term or twelve (12) credits per trimester term of postsecondary credits of dual

credit courses during their ~~twelfth grade year~~. Average daily attendance shall be counted as normal for such ~~twelfth grade~~ students for public school funding purposes. In addition, the state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per credit cost charged for such dual credit courses by accredited postsecondary institutions. The amount so distributed shall not exceed seventy-five dollars (\$75.00) per credit hour.

SECTION 3. That Section 33-1627, Idaho Code, be, and the same is hereby amended to read as follows:

33-1627. ONLINE COURSES -- MOBILE COMPUTING DEVICES AND TEACHER TRAINING. (1) The legislature finds that in order to better provide students with the skills that they will need to be successful as students, employees, entrepreneurs and parents in the future, more exposure is needed to online learning and informational environments.

(2) Beginning with the 2012-2013 school year, parents and guardians of secondary students shall have the right to enroll such students in any online course, with or without the permission of the school district or public charter school in which the student is enrolled, provided the following criteria are met:

(a) The course is offered by a provider accredited by the organization that accredits Idaho high schools, or an organization whose accreditation of providers is recognized by the organization that accredits Idaho high schools;

(b) The state department of education has verified that the teacher is certificated by the state of Idaho and is qualified to teach the course;

(c) The state department of education or the Idaho digital learning academy has verified that the course meets state content standards;

(d) The parent or guardian registers the student for the course through the school district or public charter school's normal registration process, which shall be made to accommodate enrollment in courses meeting the requirements of paragraphs (a) through (c) of this subsection. Provided however, that school districts and public charter schools shall accommodate such enrollment requests if a student's parent or guardian makes such request no later than thirty (30) days prior to the end of the term immediately previous to the one for which the student is enrolling, or no later than the end of the school year, in the case of a term ending at the end of the school year.

(e) Parents or guardians shall not have the right to enroll a student in an online course without school district or public charter school permission if the enrollment causes the number of online courses in which the student is enrolled without such permission to exceed fifty percent (50%) of the total courses in which the student is enrolled for that term.

(3) A student's transcript at the school district or public charter school at which the student is enrolled shall include the credits earned and grades received by each student for any online courses taken pursuant to this section.

(4) Online course providers shall report average daily attendance to each student's school district or public charter school based on the provider's choice of one (1) of the methodologies described in section 33-5208(8) (b), Idaho Code.

(5) In order to assist in providing students with access to online courses, the state department of education shall contract for the provision of mobile computing devices for the students and teachers of each high school. Such devices shall be provided to all high school teachers beginning in the 2012-2013 school year, unless the teacher already has a computing device available and requests that one not be provided. Such devices for

teachers shall be replaced every four (4) years. Devices shall be provided for high school students beginning in the 2013-2014 school year. The number of devices provided to students each year shall be equal to one-third (1/3) of the high school students through the 2015-2016 school year, after which the number shall be equal to the number of ninth grade students. School districts and public charter schools in which high school begins in tenth grade may elect to have all of the provisions of this section that apply to ninth grade students apply instead to tenth grade students. School districts and public charter schools that already have one (1) modern functioning computing device for each student in each appropriate class in grades 9-12 who is able to use such a device shall receive an allocation of funds equal to the cost of purchasing mobile computing devices pursuant to this section, in lieu of receiving such devices, to be used at the school district or public charter school's discretion. The department shall use the same laws, rules and policies in issuing and awarding such contract as would an executive branch agency in which an appointed director reports directly to the governor. Such devices shall include technology that provides for compliance with the provisions of section 33-132, Idaho Code. Such contract shall also provide for the maintenance, repair and technical support of such devices. The cost of such contract and distributions made pursuant to this subsection shall be paid from the moneys appropriated for the educational support program. Each school district or public charter school shall develop a policy on student use of the mobile computing devices outside of the school day. Such policy shall be in compliance with the provisions of section 33-132, Idaho Code. The state department of education shall develop a policy addressing the issue of damage, loss, repair and replacement of the mobile computing devices.

(56) The state department of education shall expend or distribute an amount equal to twelve (12) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds for fiscal year 2013 through fiscal year 2016, from the amount appropriated to the educational support program, to train high school staff in the use of mobile computing devices by students in the classroom, and the integration of such use into the curriculum. For the purposes of this subsection, the support units used to calculate this statewide figure shall be the statewide support units used to calculate the distribution of salary-based apportionment funds in the current fiscal year.

(67) The state board of education shall promulgate rules to implement the provisions of this section, including a requirement for online courses needed for graduation beginning with the graduating class of 2016, and the development of digital citizenship standards for students to which this graduation requirement applies.

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.

SECTION 5. If Chapter 247, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

Approved April 3, 2012.

CHAPTER 267
(S.B. No. 1329)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004F, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS; AMENDING SECTION 33-1004I, IDAHO CODE, TO REVISE A PROVISION RELATING TO PAY FOR PERFORMANCE BONUSES FOR STUDENT ACHIEVEMENT GROWTH AND TO REVISE CERTAIN DATES RELATING TO CERTAIN CERTIFICATED EMPLOYEES' NEW EMPLOYMENT CONTRACTS, TO ESTABLISH A PROVISION RELATING TO CERTAIN ADMINISTRATIVE EMPLOYEES' AWARD OF PAY FOR PERFORMANCE SHARES, TO REVISE A PROVISION RELATING TO A CERTAIN DISTRIBUTION AND TO ESTABLISH PROVISIONS RELATING TO A DISTRIBUTION ALLOCATED FOR CERTAIN BENEFIT COSTS; DECLARING AN EMERGENCY AND PROVIDING A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-1004F, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004F. OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS. Based upon the actual salary-based apportionment, as determined in section 33-1004E, Idaho Code, ~~plus distributions made pursuant to section 33-1004I, Idaho Code,~~ there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security. In addition, from the moneys distributed pursuant to section 33-1004I, Idaho Code, there shall be allocated the portion required to meet the employer's obligations to the public employee retirement system and to social security for the remainder of the moneys so distributed.

SECTION 2. That Section 33-1004I, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004I. PAY FOR PERFORMANCE -- HARD TO FILL POSITIONS -- LEADERSHIP AWARDS. (1) In addition to the moneys provided pursuant to the calculations for salary-based apportionment, the following amounts shall be distributed and paid, from the moneys appropriated to the educational support program, subject to the criteria contained in this section:

(a) For fiscal year 2013, an amount equal to five hundred forty-four (544) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsection (2) of this section.

(b) For fiscal year 2014, an amount equal to seven hundred fifty-three (753) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsections (2), (3) and (4) of this section, in the following proportions:

(i) Seventy-four and one-tenth percent (74.1%) pursuant to subsection (2) of this section;

(ii) Seven and four-tenths percent (7.4%) pursuant to subsection (3) of this section;

(iii) Eighteen and one-half percent (18.5%) pursuant to subsection (4) of this section.

(c) For fiscal year 2015 and each fiscal year thereafter, an amount equal to seven hundred seventy (770) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsections (2), (3) and (4)

of this section, plus fifty percent (50%) of any moneys appropriated for increased pay for certificated staff beyond the amount needed to fund the base and minimum instructional salaries, pursuant to section 33-1004E, Idaho Code, that were in effect during fiscal year 2009. Such distributions made pursuant to subsections (2), (3) and (4) of this section shall be made according to the allocations established in subsection (1) (b) of this section.

(d) The provision in subsection (1) (c) of this section that directs that fifty percent (50%) of certain moneys be distributed pursuant to subsections (2), (3) and (4) of this section shall be effective until such time as fifteen percent (15%) of the total moneys appropriated for certificated staff salaries are being distributed pursuant to this section. After this allocation is attained, fifteen percent (15%) of the total moneys appropriated for certificated staff salaries shall be distributed pursuant to subsections (2), (3) and (4) of this section. Such distributions made pursuant to subsections (2), (3) and (4) of this section shall be made according to the allocations established in subsection (1) (b) of this section.

(e) For the purposes of this subsection, the term "statewide support units" shall mean the total number of support units calculated for the purposes of distributing salary-based apportionment in the previous fiscal year.

(f) In the event of a reduction in the moneys appropriated for certificated staff salaries, the calculations established pursuant to subsections (1) (b) through (d) of this section shall be performed in reverse.

(2) Share-based pay for performance bonuses for student achievement growth and excellence.

(a) Certificated employees shall be awarded state shares based on the performance of whole schools.

(i) Growth -- Utilizing a state longitudinal data system for students, the state department of education shall develop a system for measuring individual student growth. Such system shall compare spring student scores on the state-mandated summative achievement tests ("spring test") from one year to the next, and establish percentile rankings for individual student growth by comparing students with an ~~identical~~ similar spring test score in the previous year with each other in the current year. A separate growth percentile shall be established for each student for each subject in which the spring test is given in consecutive grades. The median student growth percentile, based on measuring all eligible students, shall be the growth score for each school. All certificated employees at a school with a median growth score in the following ranked quartiles shall be awarded state shares as follows:

	Instructional	Administrative
1st Highest Quartile	1.00 shares	2.00 shares
2nd Highest Quartile	0.50 shares	1.00 shares
3rd Highest Quartile	0.25 shares	0.50 shares
4th Highest Quartile	0.00 shares	0.00 shares

(ii) Excellence -- The state department of education shall develop a system for comparing and ranking school spring test scores based on standardized scores, utilizing all grades and subjects tested. Based on each school's median standardized score, all certificated employees of a school in the following ranked quartiles shall be awarded state shares as follows:

	Instructional	Administrative
1st Highest Quartile	0.50 shares	1.00 shares
2nd Highest Quartile	0.25 shares	0.50 shares
3rd Highest Quartile	0.00 shares	0.00 shares
4th Highest Quartile	0.00 shares	0.00 shares

(iii) No certificated instructional employee shall receive more than one (1.00) share, the results of the quartile award tables for growth and excellence notwithstanding. No certificated administrative employee shall receive more than two (2.00) shares, the results of the quartile award tables for growth and excellence notwithstanding.

(iv) Students whose spring test results are excluded from the school's results for federal accountability purposes shall be excluded from school growth and excellence calculations.

(v) For schools that do not administer the spring test, or for which no spring test growth calculation is possible, the school and its certificated employees shall be included with the school to which the students matriculate.

(vi) For certificated employees assigned more than one (1) school, state shares shall be earned pro rata, based on the percentage of the employee's time assigned to each school at the time that students take their spring tests. In addition, for part-time employees, state shares shall be earned pro rata, based on such employee's full-time equivalency status.

(vii) The number of schools in each quartile shall be based on the number of certificated employees employed at the schools, with as close to twenty-five percent (25%) of such employees falling within each quartile as possible.

(viii) For certificated employees not assigned to a specific school, all new employment contracts signed on or after July 1, 2011~~2~~, shall provide that at least five percent (5%) of the total available compensation be based on growth in student achievement, as determined by the board of trustees. Such percentage shall increase to ten percent (10%) of the total available compensation for contracts signed on or after July 1, 2015~~6~~, and fifteen percent (15%) for contracts signed on or after July 1, 2019~~20~~.

(b) Local shares shall be awarded to certificated employees based on performance. Each board of trustees shall develop a plan for awarding local pay for performance shares in consultation with certificated employees. Local share awards to certificated instructional employees shall be based on the performance of groups of such employees, unless there is only one (1) such employee in the school district. No employee shall receive more than one (1.00) local share. For part-time employees, local shares shall be earned pro rata, based on such employee's full-time equivalency status. Local share awards shall be based on one (1) or more of the following measures:

- (i) Student test scores;
- (ii) Student graduation rate;
- (iii) Student dropout rate;
- (iv) Percent of graduates attending postsecondary education or entering military service;
- (v) Making federally approved adequate yearly progress;
- (vi) Number of students successfully completing dual credit or advanced placement classes;
- (vii) Percent of students involved in extracurricular activities;
- (viii) Class projects;

- (ix) Portfolios;
- (x) Successful completion of special student assignments;
- (xi) Parental involvement;
- (xii) Teacher-assigned grades;
- (xiii) Student attendance rate; and
- (xiv) Various other criteria determined by local districts, subject to approval by the state department of education.

For any school district in which the board of trustees fails to adopt a plan for awarding local pay for performance shares by September 1, local shares awarded for performance in that school year shall be identical to the number of state shares awarded for each certificated employee; provided however, that certificated administrative employees shall be awarded half of the number of state shares earned by each such employee.

(c) Individual pay for performance bonuses shall be calculated as follows:

- (i) Divide the moneys available for pay for performance bonuses by the total number of state shares earned by certificated employees statewide.
- (ii) To determine the amount of pay for performance bonus funds to distribute to each school district, multiply the result of subparagraph (i) of this subsection by the number of state shares earned by certificated employees in the school district.
- (iii) To establish the value of a share in each school district, the school district shall divide the funds distributed by the state department of education pursuant to subparagraph (ii) of this subsection by the total number of state and local shares earned by all certificated employees who earned at least a fraction of both a state and local share.
- (iv) Multiply the total number of state and local shares earned by each certificated employee of the school district who earned at least a fraction of a state and local share by the result of subparagraph (iii) of this subsection. Certificated employees who do not earn at least a fraction of both a state and local share shall not be eligible to receive a pay for performance bonus. Pay for performance bonuses shall be paid by school districts to qualifying certificated employees in a lump sum by no later than December 15 following the spring test of the prior school year.

(3) Hard to fill position bonuses.

(a) The state board of education shall designate certificates and endorsements held by certificated instructional staff for hard to fill position bonuses. The board shall rank the certificates or endorsements to be so designated based on the relative difficulty of school districts' ability to recruit and retain such personnel. No additional certificates or endorsements may be added to the rankings beyond the first such certificate or endorsement that causes the number of certificates or endorsements to equal or exceed one-third (1/3) of the total certificates and endorsements held by certificated instructional public school employees in the state. The board shall review and alter such rankings and designations at least once every two (2) years based on market conditions. Any changes in rankings and designations shall be made by the board by no later than March 31 of the previous school year, and school districts shall be promptly notified of any changes.

(b) School district boards of trustees may choose to designate certificates and endorsements held by certificated instructional employees for hard to fill position bonuses, provided such certificates and endorsements have been so designated by the state board of education as provided in subsection (3)(a) of this section. School boards of trustees choosing to make such designations shall rank the certificates and endorsements based on the relative difficulty of recruiting and

retaining such personnel. No additional certificates or endorsements may be added to the rankings beyond the first such certificate or endorsement that causes the number of the district's full-time equivalent employees utilizing such certificates and endorsements to equal or exceed ten percent (10%) of the certificated instructional positions employed by the district; provided however, the number of such employees who may be designated shall not be less than one (1). The amount distributed for utilization by each district shall be based on each district's share of the total certificated instructional employees statewide. Funds so distributed shall be paid solely to certificated instructional personnel holding the certifications and endorsements designated by the local school board, in amounts that shall be determined at the discretion of the local board, which may vary between, but not within, individual certificate and endorsement areas; provided however, no award shall exceed twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section.

(c) School districts may apply to the state board of education to waive the requirement that a certificate or endorsement designated by the school district for hard to fill position bonuses first be designated for such by the state board of education. The state board of education may grant such a waiver for good and rational cause.

(d) In order to receive a hard to fill position bonus, an individual must actually be providing instruction or service within the designated certificate or endorsement area.

(e) If an individual qualifies for a hard to fill position bonus in more than one (1) certificate or endorsement, the individual shall be allocated and paid on a full-time equivalency basis, based on the relative time spent in each of the qualifying areas.

(f) School district boards of trustees choosing to utilize hard to fill position bonus funds shall designate a new list of certificates and endorsements for such bonuses for each school year by no later than June 11 of the previous school year. The new list may be identical to the list from the previous school year, subject to the current ten percent (10%) limitation requirements.

(g) If the board of trustees determines that it will be unable to attract a qualified candidate to serve in a hard to fill position, even with the addition of such bonus funds, the board may use such funds to pay for the training and coursework needed by a currently unqualified employee or other individual to gain such qualification. If such payment is authorized, the amount paid for an individual in a fiscal year shall not exceed twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section. The individual for whom training and coursework is paid in such manner must earn a passing grade for the training and coursework that is paid by the school district and must work for the school district at least one (1) year in the designated certificate or endorsement area for each fiscal year in which the school district made payments for training and coursework, or repay the funds.

(h) Hard to fill position bonuses shall be paid by school districts to qualifying certificated instructional employees by no later than December 15, in a lump sum payment.

(4) Leadership awards.

(a) School district boards of trustees may designate up to twenty-five percent (25%) of their certificated instructional employees for leadership awards. Such awards shall recognize excellence, be valid only for the fiscal year for which the awards are made and require one (1) or more of the following additional duties:

(i) Teacher or other instructional staff mentoring;

- (ii) Content leadership;
- (iii) Lead teacher;
- (iv) Peer teaching coach;
- (v) Content specialist;
- (vi) Remedial instructor;
- (vii) Curriculum development;
- (viii) Assessment development;
- (ix) Data analysis;
- (x) Grant writing;
- (xi) Special program coordinator;
- (xii) Research project;
- (xiii) Teaching professional development course;
- (xiv) Service on local/state/national education committee or task force;
- (xv) Providing leadership to a professional learning community;
- (xvi) Earning national board certification; and
- (xvii) Various other criteria determined by local districts, subject to approval by the state department of education.

Duties related to student activities and athletics shall not be eligible for leadership awards.

(b) Local school district boards of trustees shall require that the employee work additional time as a condition of the receipt of a leadership award.

(c) Local school district boards of trustees may grant multiple leadership awards with multiple additional duties. No employee, however, shall receive leadership awards in excess of twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section.

(d) Leadership awards shall be paid by school districts to qualifying certificated instructional employees in a lump sum payment upon completion of the additional duty.

(e) Employees with fewer than three (3) years of experience shall not be eligible for leadership awards. The term "experience" shall be as used for certificated instructional staff in section 33-1004A, Idaho Code.

(f) Notwithstanding the provisions of subsection (4) (a) through (e) of this section, employees who earned national board certification prior to July 1, 2011, and who are no longer receiving payments for earning such certification pursuant to section 33-1004E, Idaho Code, due to the repeal of the provision providing for such payments, shall be paid two thousand dollars (\$2,000) per year from the moneys allocated pursuant to this subsection (4) until all moneys that would have been paid under the previous provisions of section 33-1004E, Idaho Code, have been paid.

(5) School districts may shift moneys between the allocations for subsections (3) and (4) of this section. The ten percent (10%) limitation established in subsection (3) of this section and the twenty-five percent (25%) limitation established in subsection (4) of this section shall be adjusted accordingly.

(6) All distributions of moneys to school districts shall be made as ~~part of~~ by no later than the third payment to school districts required by section 33-1009, Idaho Code. A portion of the moneys so distributed shall be allocated to pay the employer benefit costs associated with the balance of the moneys distributed, pursuant to section 33-1004F, Idaho Code.

(7) School districts shall not enter into any contract that discriminates against those receiving a bonus award pursuant to this section.

(8) The state department of education may require reports of information as needed to implement the provisions of this section and provide reports to the governor, the legislature and the public.

(9) For the purposes of this section, the term "school district" also means "public charter school," and the term "board of trustees" also means "board of directors."

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval.

SECTION 4. If Chapter 97, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null void and of no further force or effect.

Approved April 3, 2012.

CHAPTER 268
(S.B. No. 1330)

AN ACT

RELATING TO AIR NAVIGATION FACILITIES; AMENDING SECTION 21-401, IDAHO CODE,
TO REMOVE LANGUAGE RELATING TO AN ELECTION REGARDING CERTAIN BONDS.

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

SECTION 1. That Section 21-401, Idaho Code, be, and the same is hereby amended to read as follows:

21-401. AUTHORITY TO PROVIDE FACILITIES -- EXPENSE -- ISSUANCE OF BONDS -- DUTIES OF COMMISSIONERS AND COUNCILMEN -- RESTRICTION ON LEASE OF FACILITIES. Counties, highway districts and cities are hereby authorized to acquire by purchase, lease, condemnation, or otherwise, take over and hold lands either wholly or partly within or without the boundaries or corporate limits of such counties, highway districts or cities, or wholly or partly within or without the state of Idaho, for the purpose of constructing and maintaining aviation fields, airports, hangars and other air navigation facilities; to provide equipment necessary or incidental to the maintenance and operation of such aviation fields or airports; to maintain, operate and manage such aviation fields, airports and grounds and prescribe rules and regulations for the maintenance, operation and management thereof, and fix fees and rentals to be charged for the use of the same or any part thereof; to survey, plat, map, grade, ornament and otherwise improve such lands and all appurtenances thereto, whether owned and operated or owned or leased by such counties, highway districts or cities, and all approaches and avenues leading to or adjacent thereto; to lease for aviation purposes or for any purposes connected therewith and incidental thereto and for such commercial purposes as the governing bodies of such counties, highway districts and cities may determine upon all or any part of the land or lands so required, under such regulations and upon such terms and conditions as shall be established by such governing bodies, and not subject to the limitation as to length of term prescribed in section 31-836, Idaho Code; to construct, operate and maintain hangars, buildings and equipment necessary or convenient to the maintenance and operation of aviation fields or airports.

Counties, highway districts and cities are hereby empowered to provide for all costs and expenses necessary or incident to the exercise of the foregoing powers or the attainment of the foregoing objects or any of them, out of the general funds or out of any of the funds made available for such purposes, of such counties, highway districts and cities, or to issue bonds pursuant to law for the payment of any or all of such costs and expenses except

for the maintenance and operation of such aviation fields or airports; ~~provided, that no bonds shall be issued for the purposes aforesaid unless and until authorized by a vote of two-thirds (2/3) of the qualified electors of the county, highway district or municipality, voting at such election held subject to the provisions of section 34-106, Idaho Code.~~ Nothing contained in this chapter shall be construed to increase the maximum of any tax levies for counties, highway districts or cities.

The boards of county commissioners of their respective counties, the highway commissioners of their respective highway districts and the councilmen of their respective cities, shall have jurisdiction and power under such limitations and restrictions as are prescribed by law to carry into full force and effect all of the provisions of this law.

Such aviation fields or airports shall in no case be leased to any person, association or corporation under such terms or conditions as to give such person, association or corporation, the exclusive right to the use of such aviation fields or airports.

Approved April 3, 2012.

CHAPTER 269
(S.B. No. 1337, As Amended)

AN ACT

RELATING TO THE SEXUAL EXPLOITATION OF A CHILD; AMENDING SECTION 18-1505B, IDAHO CODE, TO DEFINE A TERM, TO REVISE A DEFINITION AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 18-1507, IDAHO CODE, TO REMOVE LEGISLATIVE FINDINGS, TO REMOVE A DEFINITION, TO REVISE A DEFINITION, TO REVISE PROVISIONS RELATING TO SEXUAL EXPLOITATION OF A CHILD AND PENALTIES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 18-1507A, IDAHO CODE, RELATING TO POSSESSION OF SEXUALLY EXPLOITATIVE MATERIAL FOR OTHER THAN A COMMERCIAL PURPOSE; AMENDING SECTION 18-8304, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-3004A, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 19-5506, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 33-1208, IDAHO CODE, TO REMOVE A CODE REFERENCE; AND AMENDING SECTION 39-1113, IDAHO CODE, TO REMOVE CODE REFERENCES.

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

SECTION 1. That Section 18-1505B, Idaho Code, be, and the same is hereby amended to read as follows:

18-1505B. SEXUAL ABUSE AND EXPLOITATION OF A VULNERABLE ADULT. (1) It is a felony for any person, with the intent of arousing, appealing to or gratifying the lust, passion or sexual desires of such person, a vulnerable adult or a third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a vulnerable adult including, but not limited to: genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex;

(b) Involve a vulnerable adult in any act of bestiality or sado-masochism as defined in section 18-1507, Idaho Code; or

(c) Cause or have sexual contact with a vulnerable adult, not amounting to lewd conduct as defined in paragraph (a) of this subsection.

(2) For the purposes of this section:

(a) "Commercial purpose" means the intention, objective, anticipation or expectation of monetary gain or other material consideration, compensation, remuneration or profit.

(b) "Sexual contact" means any physical contact between a vulnerable adult and any person or between vulnerable adults, which is caused by the actor, or the actor causing the vulnerable adult to have self-contact;

(bc) "Sexually exploitative material" means any image, photograph, motion picture, videotape, print, negative, slide or other mechanically, electronically, digitally or chemically produced or reproduced visual material that depicts shows a vulnerable adult engaged in, participating in, observing or being used for explicit sexual conduct as defined in section 18-1507, Idaho Code, or showing a vulnerable adult engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling; and

(ed) "Vulnerable adult" is as defined in section 18-1505, Idaho Code.

(3) Sexual abuse of a vulnerable adult is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed twenty-five (25) years or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both such fine and imprisonment.

(4) It shall be a felony for any person to commit sexual exploitation of a vulnerable adult if, for any commercial purpose, ~~as defined in section 18-1507, Idaho Code,~~ he knowingly:

(a) Causes, induces or permits a vulnerable adult to engage in or be used in any explicit sexual conduct as defined in section 18-1507, Idaho Code; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses or distributes sexually exploitative material.

(5) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(6) Sexual exploitation of a vulnerable adult shall be punishable by imprisonment in the state prison for a period not to exceed fifteen (15) years or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both such fine and imprisonment.

SECTION 2. That Section 18-1507, Idaho Code, be, and the same is hereby amended to read as follows:

18-1507. DEFINITIONS -- SEXUAL EXPLOITATION OF A CHILD -- PENALTIES. (1) ~~The legislature hereby finds and declares that the commercial sexual exploitation of children constitutes a wrongful invasion of the child's right of privacy and results in social, developmental, and emotional injury to the child; that a child below the age of eighteen (18) years is incapable of giving informed consent to the use of his or her body for a commercial purpose; and that to protect children from commercial sexual exploitation it is necessary to prohibit the production for trade or commerce of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce.~~

~~(2) As used in this section, unless the context otherwise requires:~~

~~(a) "Bestiality" means a sexual connection in any manner between a human being and any animal.~~

~~(b) "Child" means a person who is less than eighteen (18) years of age.~~

~~(c) "Commercial purpose" means the intention, objective, anticipation, or expectation of monetary gain or other material consideration, compensation, remuneration, or profit.~~

(d) "Erotic fondling" means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved. "Erotic fondling" shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(ed) "Erotic nudity" means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(fe) "Explicit sexual conduct" means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.

(gf) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(hg) "Sadomasochism" means:

- (i) Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or
- (ii) The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(ih) "Sexual excitement" means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(ji) "Sexual intercourse" means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(kj) "Sexually exploitative material" means any image, photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, digitally or chemically produced or reproduced visual material which depicts shows a child engaged in, participating in, observing, or being used for explicit sexual conduct, or showing a child engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling.

(32) A person commits sexual exploitation of a child if ~~for any commercial purpose,~~ he knowingly and willfully:

(a) Possesses or accesses through any means including, but not limited to, the internet, any sexually exploitative material; or

(b) Causes, induces, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing or making sexually exploitative material; or

(bc) Promotes, prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, or advertises, deals in, possesses, or distributes any sexually exploitative material; or

(d) Distributes through any means including, but not limited to, mail, physical delivery or exchange, use of a computer or any other electronic or digital method, any sexually exploitative material. Distribution of sexually exploitative material does not require a pecuniary transaction or exchange of interests in order to complete the offense.

~~(4) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.~~

(3) The sexual exploitation of a child pursuant to subsection (2) (a) of this section is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$10,000), or by both such imprisonment and fine.

(54) The sexual exploitation of a child pursuant to subsections (2) (b), (c) and (d) of this section is a felony and shall be punishable by imprisonment in the state prison for a term not to exceed thirty (30) years or by a fine not to exceed fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

(65) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 3. That Section 18-1507A, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), ~~18-1507A (possession of sexually exploitative material for other than a commercial purpose),~~ 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age or where the defendant is exempted under subsection (4) of this section), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age or where the defendant is ex-

empted under subsection (4) of this section), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section 18-6101(2) or 18-6108(2), Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

(a) All parties have stipulated to the exemption; or

(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101(3) through (9) or 18-6108(3) through (7), Idaho Code.

(5) The department shall have authority to promulgate rules to implement the provisions of this chapter.

SECTION 5. That Section 19-3004A, Idaho Code, be, and the same is hereby amended to read as follows:

19-3004A. ADMINISTRATIVE SUBPOENA -- ELECTRONIC COMMUNICATION AND REMOTE COMPUTING SERVICES. (1) A provider of an electronic communication service or remote computing service that is transacting or has transacted any business in the state shall disclose the following to a prosecuting

attorney or the attorney general pursuant to an administrative subpoena issued by the prosecuting attorney or attorney general:

(a) Records and information in its possession containing the name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including the start date; and

(b) Records and information in its possession containing the types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(c) Records and information in its possession relating to the means and source of payment for such service pertaining to a subscriber to or customer of such service.

The provider of an electronic communication service or remote computing service shall deliver the records to the prosecuting attorney or attorney general within fourteen (14) days of receipt of the subpoena.

(2) For the purpose of this section, the following definitions shall apply:

(a) "Electronic communication service" has the same meaning as provided in section 18-6701(13), Idaho Code.

(b) "Remote computing service" means the provision to the public of computer storage or processing service by means of an electronic communications system as defined in section 18-6701(12), Idaho Code.

(3) In order to obtain the records or information, the prosecuting attorney or attorney general shall certify on the face of the subpoena that there is reason to believe that the records or information being sought are relevant to a legitimate law enforcement investigation concerning a violation of section 18-1505B, 18-1506, 18-1506A, 18-1507, ~~18-1507A~~, 18-1508, 18-1508A, 18-1509, 18-1509A, 18-1515, 18-2202 or 18-6609, Idaho Code.

(4) No subpoena issued pursuant to this section shall demand records that disclose the content of electronic communications or subscriber account records disclosing internet locations which have been accessed including, but not limited to, websites, chat channels and news groups, but excluding servers used to initially access the internet. No recipient of a subpoena issued pursuant to this section shall provide any such content or records accessed, in response to the subpoena.

(5) On a motion made by the electronic communication service or remote computing service provider prior to the time for appearance or the production of documents under the subpoena issued pursuant to this section, a court of competent jurisdiction may quash or modify the administrative subpoena if the provider establishes that the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.

(6) No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of an administrative subpoena issued under this section.

(7) A person who is subpoenaed under this section and who fails to appear or produce materials as required by the subpoena, or who refuses to be sworn or give testimony, may be found to be in contempt of court. Proceedings to hold a person in contempt under this subsection may be brought in the county where the subpoena was issued.

(8) Nothing in this section shall limit the right of a prosecuting attorney or the attorney general to otherwise obtain records or information from a provider of electronic communication service or remote computing service pursuant to a search warrant, a court order or a grand jury or trial subpoena.

SECTION 6. 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. (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:

- (1) Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);
- (2) Aggravated assault (section 18-905, Idaho Code);
- (3) Aggravated battery (section 18-907, Idaho Code);
- (4) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);
- (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);
- (10) Domestic violence (section 18-918, Idaho Code, constituting a felony);
- (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;
- (12) Injury to a child (section 18-1501(1), Idaho Code);
- (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);
- (15) ~~Possession of sexually exploitive material for other than a commercial purpose~~ Sexual exploitation of a child (section 18-1507A, Idaho Code);
- (16) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
- (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);
- (26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
- (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;
- (31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (32) Forest sabotage (section 18-4631, Idaho Code);
- (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);
- (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);
- (42) Robbery (section 18-6501, Idaho Code);
- (43) Incest (section 18-6602, Idaho Code);
- (44) Crime against nature (section 18-6605, Idaho Code);
- (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);
- (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);
- (60) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);
- (61) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).

(b) In addition to those crimes enumerated in subsection (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:

- (1) 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);

- (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);
- (8) Injury to a child (section 18-1501(1), Idaho Code);
- (9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
- (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);
- (19) 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;
- (23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (24) Forest sabotage (section 18-4631, Idaho Code);
- (25) 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);
- (30) 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);
- (34) Robbery (section 18-6501, Idaho Code);
- (35) Incest (section 18-6602, Idaho Code);
- (36) Crime against nature (section 18-6605, Idaho Code);
- (37) 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);

(51) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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:

(1) The source of the sample is the person, the victim or other persons of interest in the case;

(2) Results of the analysis are entered into evidence in the person's criminal case;

(3) The DNA sample was previously analyzed for another criminal case; or

(4) Restitution for that DNA sample analysis was ordered in any other criminal case.

(h) 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.

(i) 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.

(j) 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 7. That Section 33-1208, Idaho Code, be, and the same is hereby amended to read as follows:

33-1208. REVOCATION, SUSPENSION, DENIAL, OR PLACE REASONABLE CONDITIONS ON CERTIFICATE -- GROUNDS. 1. The professional standards commission may deny, revoke, suspend, or place reasonable conditions on any certificate issued or authorized under the provisions of section 33-1201, Idaho Code, upon any of the following grounds:

a. Gross neglect of duty;

b. Incompetency;

c. Breach of the teaching contract;

d. Making any material statement of fact in the application for a certificate, which the applicant knows to be false;

e. Revocation, suspension, denial or surrender of a certificate in another state for any reason constituting grounds for revocation in this state;

f. Conviction, finding of guilt, withheld judgment or suspended sentence, in this or any other state of a crime involving moral turpitude;

g. Conviction, finding of guilt, withheld judgment, or suspended sentence in this state or any other state for the delivery, manufacture or production of controlled substances or simulated controlled substances as those terms are defined in section 37-2701, Idaho Code;

h. A guilty plea or a finding of guilt, notwithstanding the form of the judgment or withheld judgment in this or any other state, of the crime of involuntary manslaughter, section 18-4006 2. or section 18-4006 3., Idaho Code;

i. Any disqualification which would have been sufficient grounds for refusing to issue or authorize a certificate, if the disqualification existed or had been known at the time of its issuance or authorization;

j. Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education;

k. The kidnapping of a child, section 18-4503, Idaho Code;

l. Conviction, finding of guilt, withheld judgment, or suspended sentence, in this state or any other state of any felony, the commission of which renders the certificated person unfit to teach or otherwise perform the duties of the certificated person's position.

2. The professional standards commission shall permanently revoke any certificate issued or authorized under the provisions of section 33-1201, Idaho Code, and shall deny the application for issuance of a certificate of a person who pleads guilty to or is found guilty of, notwithstanding the form of the judgment or withheld judgment, any of the following felony offenses against a child:

a. The aggravated assault of a child, section 18-905, Idaho Code, or the assault with intent to commit a serious felony against a child, section 18-909, Idaho Code.

b. The aggravated battery of a child, section 18-907, Idaho Code, or the battery with intent to commit a serious felony against a child, section 18-911, Idaho Code.

c. The injury or death of a child, section 18-1501, Idaho Code.

d. The sexual abuse of a child under sixteen (16) years of age, section 18-1506, Idaho Code.

e. The ritualized abuse of a child under eighteen (18) years of age, section 18-1506A, Idaho Code.

f. The sexual exploitation of a child, section 18-1507, Idaho Code.

~~g. Possession of photographic representations of sexual conduct involving a child, section 18-1507A, Idaho Code.~~

~~h. Lewd conduct with a child under the age of sixteen (16) years, section 18-1508, Idaho Code.~~

~~ih. The sexual battery of a minor child sixteen (16) or seventeen (17) years of age, section 18-1508A, Idaho Code.~~

~~ji. The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho Code.~~

~~kj. The murder of a child, section 18-4003, Idaho Code, or the voluntary manslaughter of a child, section 18-4006 1., Idaho Code.~~

~~lk. The kidnapping of a child, section 18-4502, Idaho Code.~~

~~ml. The importation or exportation of a juvenile for immoral purposes, section 18-5601, Idaho Code.~~

~~nm. The abduction of a person under eighteen (18) years of age for prostitution, section 18-5610, Idaho Code.~~

~~en. The rape of a child, section 18-6101 or 18-6108, Idaho Code.~~

The general classes of felonies listed in subsection 2. of this section shall include equivalent laws of federal or other state jurisdictions. For

the purpose of this subsection, "child" means a minor or juvenile as defined by the applicable state or federal law.

3. The professional standards commission may investigate and follow the procedures set forth in section 33-1209, Idaho Code, for any allegation of inappropriate conduct as defined in this section, by a holder of a certificate whether or not the holder has surrendered his certificate without a hearing or failed to renew his certificate. In those cases where the holder of a certificate has surrendered or failed to renew his certificate and it was found that inappropriate conduct occurred, the commission shall record such findings in the permanent record of the individual and shall deny the issuance of a teaching certificate.

4. Any person whose certificate may be or has been revoked, suspended or denied under the provisions of this section shall be afforded a hearing according to the provisions of section 33-1209, Idaho Code.

5. The professional standards commission may deny the issuance of a certificate for any reason that would be a ground for revocation or suspension.

SECTION 8. That Section 39-1113, Idaho Code, be, and the same is hereby amended to read as follows:

39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license may be denied, suspended or revoked by the department if the department finds that the applicant or licensee does not comply with the provisions of this chapter.

(2) No person who pleads guilty to, has been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child including the following offenses or a similar provision in another jurisdiction, shall be eligible for a license under the provisions of this chapter:

- (a) Felony injury of a child, section 18-1501, Idaho Code.
- (b) The sexual abuse of a child under sixteen years of age, section 18-1506, Idaho Code.
- (c) The ritualized abuse of a child under eighteen years of age, section 18-1506A, Idaho Code.
- (d) The sexual exploitation of a child, section 18-1507 ~~or 18-1507A~~, Idaho Code.
- (e) Sexual abuse of a child under the age of sixteen years, section 18-1506, Idaho Code.
- (f) Lewd conduct with a child under the age of sixteen years, section 18-1508, Idaho Code.
- (g) The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho Code.
- (h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.
- (i) Assault with intent to murder, section 18-4015, Idaho Code.
- (j) Voluntary manslaughter, section 18-4006, Idaho Code.
- (k) Rape, section 18-6101 or 18-6108, Idaho Code.
- (l) Incest, section 18-6602, Idaho Code.
- (m) Forcible sexual penetration by use of foreign object, section 18-6608, Idaho Code.
- (n) Abuse, neglect or exploitation of a vulnerable adult, section 18-1505, Idaho Code.
- (o) Aggravated, first degree, second degree and third degree arson, sections 18-801 through 18-805, Idaho Code.
- (p) Crimes against nature, section 18-6605, Idaho Code.
- (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.
- (r) Mayhem, section 18-5001, Idaho Code.
- (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

~~(t) Possession of sexually exploitative material, section 18-1507A, Idaho Code.~~

~~(u) Robbery, section 18-6501, Idaho Code.~~

(v) Stalking in the first degree, section 18-7905, Idaho Code.

(w) Video voyeurism, section 18-6609, Idaho Code.

(x) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

(y) Inducing individuals under eighteen years of age into prostitution, section 18-5609, Idaho Code.

(z) Inducing person under eighteen years of age to patronize a prostitute, section 18-5611, Idaho Code.

(aa) Any felony punishable by death or life imprisonment.

(bbaa) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(3) No person who has pleaded guilty to, been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child, including the following offenses or a similar provision in another jurisdiction shall be eligible for a license for a period of five (5) years under the provisions of this chapter.

(a) Aggravated assault, section 18-905, Idaho Code.

(b) Aggravated battery, section 18-907(1), Idaho Code.

(c) Burglary, section 18-1401, Idaho Code.

(d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.

(e) Forgery of a financial transaction card, section 18-3123, Idaho Code.

(f) Fraudulent use of a financial transaction card or number, section 18-3124, Idaho Code.

(g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.

(h) Misappropriation of personal identifying information, section 18-3126, Idaho Code.

(i) Insurance fraud, section 41-293, Idaho Code.

(j) Damage to or destruction of insured property, section 41-294, Idaho Code.

(k) Public assistance fraud, section 56-227, Idaho Code.

(l) Provider fraud, section 56-227A, Idaho Code.

(m) Attempted strangulation, section 18-923, Idaho Code.

(n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(o) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

(4) A daycare facility license may be denied, suspended or revoked by the department if the department finds that the daycare facility is not in compliance with the standards provided for in this chapter or criminal activity that threatens the health or safety of a child.

(5) A daycare facility license or privilege to operate a family daycare home shall be denied or revoked if a registered sex offender resides on the premises where daycare services are provided.

(6) The denial, suspension or revocation of a license under this chapter may be appealed to the district court of the county in which the affected daycare facility is located and the appeal shall be heard de novo in the district court.

Approved April 3, 2012.

CHAPTER 270
(S.B. No. 1338)

AN ACT

RELATING TO ENTICING A CHILD; AMENDING SECTION 18-1509A, IDAHO CODE, TO REVISE A SHORT TITLE, TO REVISE PROVISIONS RELATING TO ENTICING A CHILD THROUGH USE OF THE INTERNET OR OTHER COMMUNICATION DEVICE AND TO PROVIDE THAT IT IS NOT NECESSARY FOR THE PROSECUTION TO MAKE A CERTAIN SHOWING IN A CERTAIN PROSECUTION.

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

SECTION 1. That Section 18-1509A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1509A. ENTICING OF A CHILDREN OVER THROUGH USE OF THE INTERNET OR OTHER COMMUNICATION DEVICE -- PENALTIES -- JURISDICTION. (1) A person aged eighteen (18) years or older shall be guilty of a felony if ~~he or she~~ such person knowingly uses the internet or any device that provides transmission of messages, signals, facsimiles, video images or other communication to solicit, seduce, lure, persuade or entice by words or actions, or both, a ~~minor child~~ person under the age of sixteen (16) years or a person the defendant believes to be a ~~minor child~~ person under the age of sixteen (16) years to engage in any sexual act with or against the child person where such act ~~is~~ would be a violation of chapter 15, 61 or 66, title 18, Idaho Code.

(2) ~~Every~~ Any person who is convicted of a violation of this section shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years.

(3) It shall not constitute a defense against any charge or violation of this section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this section.

(4) In a prosecution under this section, it is not necessary for the prosecution to show that an act described in chapter 15, 61 or 66, title 18, Idaho Code, actually occurred.

(5) The offense is committed in the state of Idaho for purposes of determining jurisdiction if the transmission that constitutes the offense either originates in or is received in the state of Idaho.

Approved April 3, 2012.

CHAPTER 271
(S.B. No. 1341)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION ACT; AMENDING SECTION 18-8304, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO CERTAIN EXEMPTIONS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 83, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8310A, IDAHO CODE, TO PROVIDE A PETITION PROCESS FOR CERTAIN PERSONS TO BE EXEMPTED FROM THE DUTY TO REGISTER AS A SEXUAL OFFENDER, TO GRANT THE DISTRICT COURT THE AUTHORITY TO EXEMPT CERTAIN PERSONS FROM THE DUTY TO REGISTER AS A SEXUAL OFFENDER AND TO ALLOW FOR EXPUNGEMENT.

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

SECTION 1. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age ~~or where the defendant is exempted under subsection (4) of this section~~), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age ~~or where the defendant is exempted under subsection (4) of this section~~), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded

guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

~~(4) When a defendant is convicted of rape under section 18-6101(2) or 18-6108(2), Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:~~

~~(a) All parties have stipulated to the exemption; or~~

~~(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101(3) through (9) or 18-6108(3) through (7), Idaho Code.~~

~~(5) The department shall have authority to promulgate rules to implement the provisions of this chapter.~~

SECTION 2. That Chapter 83, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8310A, Idaho Code, and to read as follows:

18-8310A. DISTRICT COURT TO RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. Any person who was convicted under section 18-6101 1., Idaho Code, as it existed before July 1, 2010, where such person would not have been convicted under section 18-6101(1) or (2), Idaho Code, may petition the district court for a determination to be exempted from the duty to register as a sexual offender. If the district court finds that such person would not have been convicted under section 18-6101(1) or (2), Idaho Code, then the district court may exempt the petitioner from the duty to register as a sexual offender and may order that any information regarding the petitioner be expunged from the central registry. In the petition, the petitioner shall:

(1) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender; and

(2) Provide an affidavit that states the following:

(a) The specific underlying facts of petitioner's conviction and that such facts do not come within the provisions of section 18-6101(1) or (2), Idaho Code;

(b) The petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any crime identified in section 18-8304, Idaho Code; and

(c) The petitioner is not required to register as a sexual offender for any other reason set forth in this chapter.

Approved April 3, 2012.

CHAPTER 272
(S.B. No. 1343)

AN ACT

RELATING TO THE DIRECTOR OF THE IDAHO STATE POLICE; AMENDING SECTION 67-2901, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF THE DIRECTOR OF THE IDAHO STATE POLICE REGARDING THE LIEUTENANT GOVERNOR AND THE LIEUTENANT GOVERNOR'S IMMEDIATE FAMILY UPON CERTAIN CIRCUMSTANCES OCCURRING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the Idaho state police. The Idaho state police shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The governor, with the advice and consent of the senate, shall appoint a director of the Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The Idaho state police shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the state police, and may delegate duties to employees and officers of the state police.

(5) The Idaho state police shall have power to:

(a) Enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subsection, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies;

- (b) Prevent and detect crime and apprehend criminals and maintain order;
 - (c) Require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;
 - (d) Safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;
 - (e) Enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;
 - (f) Enforce Idaho statutes and rules of the Idaho state police applicable to motor carriers;
 - (g) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
 - (h) Regulate traffic on all highways and roads in the state;
 - (i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;
 - (j) Execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;
 - (k) Arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;
 - (l) Members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;
 - (m) Each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath shall be filed with the director.
- (6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases.
- (7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.
- (8) At the written direction of the governor or the director, the director shall provide security and protection for the lieutenant governor and the lieutenant governor's immediate family to the extent and in the manner the lieutenant governor and the director deem adequate and appropriate.
- (9) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.
- (910) The director shall provide security and protection for the supreme court and the court of appeals while they are in session, and at their places of work, as the chief justice and the director deem necessary.
- (101) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring offi-

cer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(112) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police.

(123) (a) The director shall issue to every eligible police officer member of the Idaho state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars (\$50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of the state police immediately upon taking the oath of office.

(c) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(134) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

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 3, 2012.

CHAPTER 273
(S.B. No. 1360)

AN ACT

RELATING TO APPROPRIATIONS TO THE ENDOWMENT FUND INVESTMENT BOARD; AMENDING SECTION 1, CHAPTER 146, LAWS OF 2011, TO ADJUST THE APPROPRIATION BETWEEN EXPENSE CLASSES AND FUNDS; AMENDING SECTION 4, CHAPTER 146, LAWS OF 2011, TO AMEND LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 146, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Endowment Fund Investment Board, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$97,100	\$40,400	\$1,500	\$139,000
	<u>\$88,300</u>	<u>\$63,900</u>		<u>\$153,700</u>
Endowment Administrative				
Fund	287,600	171,600	4,500	463,700
	<u>300,800</u>	<u>143,700</u>		<u>449,000</u>
TOTAL	\$384,700	\$212,000	\$6,000	\$602,700
	<u>\$389,100</u>	<u>\$207,600</u>		

SECTION 2. That Section 4, Chapter 146, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2012, the Endowment Fund Investment Board transfer \$46,041,000 \$46,425,000 as follows: \$31,292,400 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$850,800 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$2,964,000 \$2,964,600 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$2,661,600 from the Normal School Earnings Reserve Fund to the Normal School Income Fund;

\$1,040,400 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$2,984,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; ~~\$1,917,600~~ \$2,301,600 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$2,329,200 from the University Earnings Reserve Fund to the University Income Fund.

SECTION 3. There is hereby appropriated to the Endowment Fund Investment Board, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$101,400	\$21,500	\$700	\$123,600
Endowment Administrative				
Fund	<u>300,900</u>	<u>180,500</u>	<u>2,600</u>	<u>484,000</u>
TOTAL	\$402,300	\$202,000	\$3,300	\$607,600

SECTION 4. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for consulting fees, bank custodial fees, and portfolio-related external costs for the period July 1, 2012, through June 30, 2013.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2013, the Endowment Fund Investment Board transfer \$47,508,600 as follows: \$31,292,400 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$916,800 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$2,964,600 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$2,670,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$1,246,800 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$2,997,600 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$2,868,000 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$2,552,400 from the University Earnings Reserve Fund to the University Income Fund.

SECTION 7. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4),

Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 and Section 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 274
(S.B. No. 1383, As Amended)

AN ACT

RELATING TO THE MAINTENANCE AND REPAIR OF DITCHES, CANALS AND CONDUITS; AMENDING SECTION 42-1203, IDAHO CODE, TO PROVIDE THAT SPECIFIED DUTIES RELATING TO DITCHES, CANALS AND CONDUITS REQUIRE REASONABLE CARE ONLY AND DO NOT IMPOSE STRICT LIABILITY OR ENLARGE LIABILITY OF OWNERS, TO PROVIDE THAT OWNERS SHALL NOT BE LIABLE FOR SPECIFIED DAMAGES OR INJURIES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT BE CONSTRUED TO IMPAIR ANY DEFENSE THAT AN OWNER OR CONSTRUCTOR OF A DITCH, CANAL, WORKS OR OTHER AQUEDUCT MAY ASSERT IN A CIVIL ACTION; AND AMENDING SECTION 42-1204, IDAHO CODE, TO PROVIDE THAT SPECIFIED DUTIES RELATING TO DITCHES, CANALS, WORKS AND AQUEDUCTS REQUIRE REASONABLE CARE ONLY AND DO NOT IMPOSE STRICT LIABILITY OR ENLARGE LIABILITY OF OWNERS, TO PROVIDE THAT OWNERS AND CONSTRUCTORS SHALL NOT BE LIABLE FOR SPECIFIED DAMAGES OR INJURIES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT BE CONSTRUED TO IMPAIR ANY DEFENSE THAT AN OWNER OR CONSTRUCTOR OF A DITCH, CANAL, WORKS OR OTHER AQUEDUCT MAY ASSERT IN A CIVIL ACTION.

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

SECTION 1. That Section 42-1203, Idaho Code, be, and the same is hereby amended to read as follows:

42-1203. MAINTENANCE OF EMBANKMENTS. The owner or owners of any irrigating ditch, canal or conduit shall carefully keep and maintain the embankments thereof in good repair, in order to prevent the water from wasting during the irrigation season, and shall not at any time permit a greater quantity of water to be turned into said ditch, canal or conduit than the banks thereof will easily contain or than can be used for beneficial or useful purposes; it being the meaning of this section to prevent the wasting and useless discharge and running away of water. The duties referenced in this section, whether statutory or common law, require reasonable care only, and shall not be construed to impose strict liability or to otherwise enlarge the liability of the owner or owners of any irrigating ditch, canal or conduit. The owners or constructors of such ditches, canals, works or other

aqueducts, while responsible for their own acts or omissions, shall not be liable for damage or injury caused by: (1) The diversion or discharge of water into a ditch, canal or conduit by a third party without the permission of the owner or owners of the ditch, canal or conduit; (2) Any other act or omission of a third party, other than an employee or agent of the owner or owners of the ditch, canal or conduit; or (3) An act of God, including fire, earthquake, storm or similar natural phenomenon. The provisions of this section shall not be construed to impair any defense that an owner or constructor of a ditch, canal, works or other aqueduct may assert in a civil action.

SECTION 2. That Section 42-1204, Idaho Code, be, and the same is hereby amended to read as follows:

42-1204. PREVENTION OF DAMAGE TO OTHERS. The owners or constructors of ditches, canals, works or other aqueducts, and their successors in interest, using and employing the same to convey the waters of any stream or spring, whether the said ditches, canals, works or aqueducts be upon the lands owned or claimed by them, or upon other lands, must carefully keep and maintain the same, and the embankments, flumes or other conduits, by which such waters are or may be conducted, in good repair and condition, so as not to damage or in any way injure the property or premises of others. The duties referenced in this section, whether statutory or common law, require reasonable care only, and shall not be construed to impose strict liability or to otherwise enlarge the liability of the owner or owners of any irrigating ditch, canal, works or other aqueduct. The owners or constructors of such ditches, canals, works or other aqueducts, while responsible for their own acts or omissions, shall not be liable for damage or injury caused by: (1) The diversion or discharge of water into a ditch, canal, works or other aqueduct by a third party without the permission of the owner or owners of the ditch, canal, works or other aqueduct; (2) Any other act or omission of a third party, other than an employee or agent of the owner or owners of the ditch, canal, works or other aqueduct; or (3) An act of God, including fire, earthquake, storm or similar natural phenomenon. The provisions of this section shall not be construed to impair any defense that an owner or constructor of a ditch, canal, works or other aqueduct may assert in a civil action. The owners or constructors have the right to enter the land across which the right-of-way extends, for the purposes of cleaning, maintaining and repairing the ditch, canal or conduit, and to occupy such width of the land along the banks of the ditch, canal or conduit as is necessary to properly do the work of cleaning, maintaining and repairing the ditch, canal or conduit with personnel and with such equipment as is commonly used, or is reasonably adapted, to that work. The right-of-way also includes the right to deposit on the banks of the ditch or canal the debris and other matter necessarily required to be taken from the ditch or canal to properly clean and maintain it, but no greater width of land along the banks of the canal or ditch than is absolutely necessary for such deposits shall be occupied by the removed debris or other matter.

Approved April 3, 2012.

CHAPTER 275
(S.B. No. 1388)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 167, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated from the Federal Grant Fund to the Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, for the period July 1, 2011, through June 30, 2012:

FOR:		
Operating Expenditures		\$37,500
Capital Outlay		80,000
Trustee and Benefit Payments		<u>100,000</u>
TOTAL		\$217,500

SECTION 2. There is hereby appropriated to the Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$626,500	\$48,500	\$599,200	\$1,274,200
Randolph Sheppard				
Fund		27,300	100,100	127,400
Rehabilitation Revenue and Refunds				
Fund		34,300	13,000	47,300
Miscellaneous Revenue				
Fund		77,400	56,300	133,700
Adaptive Aids and Appliances				
Fund	15,400	47,600		63,000
Federal Grant				
Fund	<u>1,713,800</u>	<u>472,400</u>	<u>341,500</u>	<u>2,527,700</u>
TOTAL	\$2,355,700	\$707,500	\$1,110,100	\$4,173,300

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine (39) full-time equivalent positions at any point

during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 276
(S.B. No. 1389)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; APPROPRIATING AND TRANSFERRING MONEYS; PROVIDING LEGISLATIVE INTENT WITH REGARD TO CERTAIN WATER RIGHT FILING FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 3, Chapter 238, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$25,000 from the General Fund to the Department of Water Resources for the Management and Support Services Program, to be expended for personnel costs, for the period July 1, 2011, through June 30, 2012.

SECTION 2. There is hereby appropriated to the Department of Water Resources, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General					
Fund	\$818,500	\$668,800	\$50,000		\$1,537,300
Indirect Cost Recovery					
Fund	308,900	142,000			450,900
Water Administration					
Fund	43,500	21,900			65,400
Miscellaneous Revenue					
Fund	<u>0</u>	<u>138,100</u>	<u>0</u>		<u>138,100</u>
TOTAL	\$1,170,900	\$970,800	\$50,000		\$2,191,700
II. PLANNING AND TECHNICAL SERVICES:					
FROM:					
General					
Fund	\$2,120,600	\$582,400		\$554,000	\$3,257,000
Indirect Cost Recovery					
Fund	66,700	12,700			79,400
Aquifer Planning and Management					
Fund	372,900	2,384,500			2,757,400
Miscellaneous Revenue					
Fund		165,000			165,000
Federal Grant					
Fund	<u>487,800</u>	<u>2,288,400</u>		<u>0</u>	<u>2,776,200</u>
TOTAL	\$3,048,000	\$5,433,000		\$554,000	\$9,035,000
III. WATER MANAGEMENT:					
FROM:					
General					
Fund	\$3,896,100	\$1,950,200	\$80,800		\$5,927,100
Indirect Cost Recovery					
Fund	52,800	4,800			57,600
Water Administration					
Fund	1,058,100	218,900			1,277,000
Miscellaneous Revenue					
Fund	672,300	246,800			919,100
Federal Grant					
Fund	<u>492,800</u>	<u>312,100</u>	<u>0</u>		<u>804,900</u>
TOTAL	\$6,172,100	\$2,732,800	\$80,800		\$8,985,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. NORTHERN IDAHO ADJUDICATION:					
FROM:					
General					
Fund	\$222,000	\$158,100			\$380,100
Northern Idaho Adjudication					
Fund	<u>70,900</u>	<u>35,000</u>			<u>105,900</u>
TOTAL	\$292,900	\$193,100			\$486,000
GRAND TOTAL	\$10,683,900	\$9,329,700	\$130,800	\$554,000	\$20,698,400

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred fifty-nine (159) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. There is hereby appropriated to the Department of Water Resources and the State Controller shall transfer \$1,232,000 from the Revolving Development Fund to the Secondary Aquifer Planning, Management, and Implementation Fund, on July 1, 2012, or as soon thereafter as practicable, for the period July 1, 2012, through June 30, 2013.

SECTION 6. LEGISLATIVE INTENT. Notwithstanding Section 42-1414(1)(c), Idaho Code, it is the intent of the Legislature that moneys appropriated in Section 2 of this act, for the Northern Idaho Adjudication Program from the General Fund, count toward the filing fees required under Section

42-1414(1) (a) and Section 42-1414(1) (b), Idaho Code, for water right claims filed in the Northern Idaho Adjudication by the Idaho Water Resource Board and the Governor of the State of Idaho based on instream flow, public lake level maintenance or recreation. If the General Fund appropriation exceeds the amount required for the Idaho Water Resource Board's and the Governor's filing fees in the current fiscal year, the excess shall be counted toward future filing fees required for those same purposes. If the General Fund appropriation does not meet or exceed the fee required for claims of the Idaho Water Resource Board or the Governor of the State of Idaho, the Director of the Department of Water Resources shall grant an extension of time to the Idaho Water Resource Board or the Governor of the State of Idaho to file the claim, and the General Fund appropriation for the following fiscal year shall be counted toward the balance of the filing fee.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 277
(S.B. No. 1391)

AN ACT

APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the State Liquor Division from the Liquor Control Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$10,636,000
Operating Expenditures	5,522,800
Capital Outlay	<u>577,100</u>
TOTAL	\$16,735,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred five (205) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit

increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 278
(S.B. No. 1392)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR REGULATORY BOARDS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Regulatory Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$255,600	\$254,100			\$509,700
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$361,300	\$224,400	\$700		\$586,400
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$1,992,400	\$1,142,000	\$1,250,000	\$52,500	\$4,436,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$348,800	\$201,700			\$550,500
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$890,700	\$555,000			\$1,445,700
GRAND TOTAL	\$3,848,800	\$2,377,200	\$1,250,700	\$52,500	\$7,529,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Regulatory Boards are authorized no more than sixty-five (65) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 279
(S.B. No. 1394)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED FUNDS; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE TOURISM AND PROMOTION FUND; PROVIDING REAPPROPRIATION FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; PROVIDING REAPPROPRIATION FOR AIRPORT DEVELOPMENT GRANTS; PROVIDING REAPPROPRIATION FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS; AND AUTHORIZING A TRANSFER OF FUNDS FOR DEBT SERVICE.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. TRANSPORTATION SERVICES:					
A. ADMINISTRATION:					
FROM:					
State Highway (Dedicated)					
Fund	\$13,941,700	\$7,012,100	\$597,600		\$21,551,400
State Highway (Billing)					
Fund	46,900	108,700			155,600
State Highway (Federal)					
Fund	<u>349,500</u>	<u>173,900</u>	<u>0</u>	<u>\$330,000</u>	<u>853,400</u>
TOTAL	\$14,338,100	\$7,294,700	\$597,600	\$330,000	\$22,560,400
B. CAPITAL FACILITIES:					
FROM:					
State Aeronautics (Dedicated)					
Fund			\$50,000		\$50,000
State Highway (Dedicated)					
Fund			<u>2,800,000</u>		<u>2,800,000</u>
TOTAL			\$2,850,000		\$2,850,000
C. AERONAUTICS:					
FROM:					
State Aeronautics (Dedicated)					
Fund	\$837,100	\$519,400	\$34,800	\$475,000	\$1,866,300
State Aeronautics (Billing)					
Fund	77,600	122,400			200,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Dedicated)					
Fund			77,600		77,600
State Aeronautics (Federal)					
Fund	<u>96,600</u>	<u>266,000</u>	<u>0</u>	<u>0</u>	<u>362,600</u>
TOTAL	\$1,011,300	\$907,800	\$112,400	\$475,000	\$2,506,500

D. TRANSPORTATION PERFORMANCE:

FROM:

State Highway (Dedicated)

Fund	\$341,100	\$47,500	\$2,600	\$312,000	\$703,200
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State Highway (Federal)

Fund	<u>647,200</u>	<u>410,500</u>	<u>0</u>	<u>8,844,500</u>	<u>9,902,200</u>
TOTAL	\$988,300	\$458,000	\$2,600	\$9,156,500	\$10,605,400

DIVISION

TOTAL	\$16,337,700	\$8,660,500	\$3,562,600	\$9,961,500	\$38,522,300
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II. MOTOR VEHICLES:

FROM:

State Highway (Dedicated)

Fund	\$12,832,100	\$15,951,600	\$409,800		\$29,193,500
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State Highway (Billing)

Fund	14,800	117,800			132,600
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State Highway (Federal)

Fund	<u>0</u>	<u>2,599,900</u>	<u>0</u>		<u>2,599,900</u>
TOTAL	\$12,846,900	\$18,669,300	\$409,800		\$31,926,000

III. HIGHWAY OPERATIONS:

FROM:

State Highway (Dedicated)

Fund	\$74,148,400	\$48,124,800	\$24,533,700	\$140,000	\$146,946,900
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State Highway (Billing)

Fund	30,200	93,000			123,200
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State Highway (Local)

Fund	196,900	102,300			299,200
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State Highway (Federal)

Fund	<u>9,811,900</u>	<u>3,609,800</u>	<u>0</u>	<u>2,265,000</u>	<u>15,686,700</u>
TOTAL	\$84,187,400	\$51,929,900	\$24,533,700	\$2,405,000	\$163,056,000

IV. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:

FROM:

State Highway (Dedicated)

Fund		\$5,053,500	\$53,912,600	\$318,000	\$59,284,100
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Local)					
Fund		705,200	2,577,900	541,000	3,824,100
State Highway (Federal)					
Fund		<u>12,153,000</u>	<u>220,505,100</u>	<u>2,914,000</u>	<u>235,572,100</u>
TOTAL		\$17,911,700	\$276,995,600	\$3,773,000	\$298,680,300
GRAND TOTAL	\$113,372,000	\$97,171,400	\$305,501,700	\$16,139,500	\$532,184,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred twenty-seven and five-tenths (1,827.5) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. CONTINUOUSLY APPROPRIATED TRANSFERS. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 5. STATE HIGHWAY FUND TRANSFER. There is hereby appropriated and the State Controller is directed to transfer \$25,000 from the State Highway Fund to the Tourism and Promotion Fund in the Department of Commerce during fiscal year 2013. This transfer will provide the matching fund support of the Gateway Visitor Centers.

SECTION 6. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as the State Highway Fund for the Contract Construction and Right-of-Way Acquisition Program as appropriated or reappropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 7. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR AIRPORT DEVELOPMENT GRANTS. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as the State Aeronautics Fund as appropriated or reappropriated for trustee and benefit payments to be used for Airport Development Grants for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 8. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR AMERICAN RECOVERY AND REINVESTMENT ACT. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as Title XII and Title XIV of the American Recovery and Reinvestment Act as appropriated or reappropriated for fiscal year 2012, to be used for nonrecurring expenditures, according to all the requirements of the federal act.

SECTION 9. BOND PAYMENT AUTHORIZATION. The federal GARVEE bond payment for fiscal year 2013 is approximately \$50,000,000. The Idaho Transportation Board is hereby authorized to transfer up to \$4,300,000 from within the State Highway Account to the GARVEE Debt Service Fund to pay the state match as required for federal funds committed to pay the annual scheduled debt service.

Approved April 3, 2012.

CHAPTER 280
(S.B. No. 1395)

AN ACT

RELATING TO THE BOARD OF DIRECTORS OF THE STATE INSURANCE FUND; AMENDING SECTION 72-901, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 72-901, Idaho Code, be, and the same is hereby amended to read as follows:

72-901. BOARD OF DIRECTORS OF STATE INSURANCE FUND -- CREATION OF STATE INSURANCE FUND. (1) There is hereby created as an independent body corporate politic a fund, to be known as the state insurance fund, for the purpose of insuring employers against liability for compensation under this worker's compensation law and the occupational disease compensation law and of securing to the persons entitled thereto the compensation provided by said laws. Such fund shall consist of all premiums and penalties received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided.

Such fund shall be administered without liability on the part of the state. Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of compensation under the worker's

compensation law and the occupational disease compensation law and of expenses of administering such fund.

(2) The governor shall appoint five (5) persons to be the board of directors of the state insurance fund. One (1) member shall be a licensed insurance agent, one (1) member shall represent businesses of the state, one (1) member shall be a representative of labor, one (1) member shall be a member of the state senate and one (1) member shall be a member of the state house of representatives. The governor shall appoint a chairman from the five (5) directors. The directors shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, provided that the first two (2) appointments the governor makes after the effective date of this act shall serve a term of two (2) years and the other three (3) members shall serve a term of four (4) years. Thereafter, a member shall serve a term of four (4) years. A certificate of appointment shall be filed in the office of the secretary of state. A majority of the members shall constitute a quorum for the transaction of business or the exercise of any power or function of the state insurance fund and a majority vote of the members shall be necessary for any action taken by the board of directors. The members of the board of directors shall appoint a manager of the state insurance fund who shall serve at their pleasure and such other officers and employees as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. Members of the board of directors shall receive a compensation for service like that prescribed in section 59-509(hn), Idaho Code.

(3) It shall be the duty of the board of directors to direct the policies and operation of the state insurance fund to assure that the state insurance fund is run as an efficient insurance company, remains actuarially sound and maintains the public purposes for which the state insurance fund was created.

(4) The state insurance fund is subject to and shall comply with the provisions of the Idaho insurance code, title 41, Idaho Code. For purposes of regulation, the state insurance fund shall be deemed to be a mutual insurer. The state insurance fund shall not be a member of the Idaho insurance guaranty association.

(5) Nothing in this chapter, or in title 41, Idaho Code, shall be construed to authorize the state insurance fund to operate as an insurer in other states.

Approved April 3, 2012.

CHAPTER 281
(S.B. No. 1396)

AN ACT

RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 2, CHAPTER 297, LAWS OF 2011, TO SHIFT MONEYS BETWEEN EXPENSE CLASSES; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 297, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 2. In addition to the appropriation made in Section 2 of House Bill No. 252, as enacted by the First Regular Session of the Sixty-first Idaho Legislature, there is hereby appropriated to the Department of Juvenile Corrections for community-based substance abuse treatment the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2011, through June 30, 2012:

FOR:

<u>Personnel Costs</u>	<u>\$77,300</u>
<u>Operating Expenditures</u>	<u>44,100</u>
Trustee and Benefit Payments	\$4,032,000
	<u>3,910,600</u>
<u>TOTAL</u>	<u>\$4,032,000</u>

FROM:

General Fund	\$4,032,000
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SECTION 2. ADDITIONAL FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Juvenile Corrections in Section 3, Chapter 162, Laws of 2011, is increased by one (1) for the period July 1, 2011, through June 30, 2012.

SECTION 3. There is hereby appropriated to the Department of Juvenile Corrections, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$1,945,700	\$771,100		\$20,000	\$2,736,800

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
Miscellaneous Revenue					
Fund	70,100	21,400			91,500
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$99,000</u>	<u>0</u>	<u>99,000</u>
TOTAL	\$2,015,800	\$792,500	\$99,000	\$20,000	\$2,927,300
II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:					
FROM:					
General					
Fund	\$1,184,000	\$181,100		\$4,243,900	\$5,609,000
Juvenile Corrections					
Fund	97,600	84,700			182,300
Juvenile Corrections - Cigarette/Tobacco Tax					
Fund				5,125,000	5,125,000
Miscellaneous Revenue					
Fund		117,300	\$9,000	327,000	453,300
Federal Grant					
Fund	<u>142,300</u>	<u>174,600</u>	<u>0</u>	<u>1,600,000</u>	<u>1,916,900</u>
TOTAL	\$1,423,900	\$557,700	\$9,000	\$11,295,900	\$13,286,500
III. INSTITUTIONS:					
FROM:					
General					
Fund	\$17,919,100	\$1,769,600		\$4,651,500	\$24,340,200
Miscellaneous Revenue					
Fund	13,400	328,000	\$32,400	460,000	833,800
State Juvenile Corrections Center Endowment Income					
Fund		790,600			790,600
Federal Grant					
Fund	<u>175,900</u>	<u>570,100</u>	<u>0</u>	<u>1,180,400</u>	<u>1,926,400</u>
TOTAL	\$18,108,400	\$3,458,300	\$32,400	\$6,291,900	\$27,891,000
IV. SUBSTANCE ABUSE SERVICES:					
FROM:					
General					
Fund	\$145,900	\$54,900		\$3,830,700	\$4,031,500
GRAND TOTAL	\$21,694,000	\$4,863,400	\$140,400	\$21,438,500	\$48,136,300

SECTION 4. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred ninety-four (394) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations

Committee will be notified promptly of any increased positions so authorized.

SECTION 5. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Department of Juvenile Corrections is hereby exempted from the provisions of Section 67-3511 (1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 6. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 282
(S.B. No. 1397)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES FOR FISCAL YEAR 2013; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community Colleges, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COLLEGE OF SOUTHERN IDAHO:					
FROM:					
General					
Fund	\$8,776,400	\$1,627,700	\$1,140,200		\$11,544,300
Community College					
Fund	<u>155,200</u>	<u>27,800</u>	<u>17,000</u>		<u>200,000</u>
TOTAL	\$8,931,600	\$1,655,500	\$1,157,200		\$11,744,300
II. NORTH IDAHO COLLEGE:					
FROM:					
General					
Fund	\$8,823,500	\$853,700			\$9,677,200
Community College					
Fund	<u>122,200</u>	<u>52,800</u>	<u>\$25,000</u>		<u>200,000</u>
TOTAL	\$8,945,700	\$906,500	\$25,000		\$9,877,200
III. COLLEGE OF WESTERN IDAHO:					
FROM:					
General					
Fund	\$3,209,300	\$2,319,100		\$1,000,000	\$6,528,400
Community College					
Fund	<u>0</u>	<u>200,000</u>		<u>0</u>	<u>200,000</u>
TOTAL	\$3,209,300	\$2,519,100		\$1,000,000	\$6,728,400
GRAND TOTAL	\$21,086,600	\$5,081,100	\$1,182,200	\$1,000,000	\$28,349,900

SECTION 2. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the

extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the State Board of Education for Community Colleges is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 3, 2012.

CHAPTER 283
(S.B. No. 1398)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Office of the State Board of Education, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OSBE ADMINISTRATION:				
FROM:				
General				
Fund	\$1,472,100	\$428,700		\$1,900,800
Indirect Cost Recovery				
Fund	29,900	208,900		238,800
Miscellaneous Revenue				
Fund	78,200	30,000		108,200
Federal Grant				
Fund	<u>137,500</u>	<u>1,488,500</u>	<u>\$374,800</u>	<u>2,000,800</u>
TOTAL	\$1,717,700	\$2,156,100	\$374,800	\$4,248,600
II. CHARTER SCHOOL COMMISSION:				
FROM:				
General				
Fund	\$219,100	\$40,600		\$259,700
GRAND TOTAL	\$1,936,800	\$2,196,700	\$374,800	\$4,508,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the State Board of Education is authorized no more than twenty-three and seventy-five hundredths (23.75) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 284
(S.B. No. 1399)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2013; AUTHORIZING AND DIRECTING THE ALLOCATION OF FUNDS FOR THE VARIOUS PROJECTS SPECIFIED; PROVIDING LEGISLATIVE INTENT RELATING TO UTILIZATION OF MATCHING FUNDS; EXEMPTING THE APPROPRIATION FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND PROVIDING LEGISLATIVE INTENT RELATING TO THE REALLOCATION OF PROJECT SAVINGS.

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

SECTION 1. There is hereby appropriated to the Division of Public Works \$22,614,500 from the Permanent Building Fund, to be expended for capital outlay, for the period July 1, 2012, through June 30, 2013.

SECTION 2. ALLOCATION OF FUNDS FOR SPECIFIC PROJECTS. Moneys appropriated in Section 1 of this act, or so much thereof as in each case may be necessary, shall be used for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair of buildings, installa-

tions, 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.

MAINTENANCE PROJECTS IN THE FOLLOWING AREAS :

Alterations and Repairs	\$16,327,700
Asbestos Abatement	216,800
Statewide American Disability Act Compliance	800,000
Capitol Mall Maintenance	<u>120,000</u>
TOTAL	\$17,464,500

CAPITAL PROJECTS :

Capitol Annex Infrastructure	\$1,500,000
Idaho State University Basement Remodel	1,000,000
Upgrade Fine Arts Building at Lewis & Clark State College	1,500,000
Remodel Emmett Readiness Center	650,000
Replace Site Communications Tower	<u>500,000</u>
TOTAL	\$5,150,000

GRAND TOTAL **\$22,614,500**

SECTION 3. UTILIZATION OF MATCHING FUNDS. 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 4. EXEMPTION OF APPROPRIATIONS FROM CERTAIN PROVISIONS. 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 5. ISSUANCE OF TAX ANTICIPATION NOTES. 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.

SECTION 6. REALLOCATION OF PROJECT SAVINGS. It is the intent of the Legislature that the Division of Public Works have the flexibility to allocate any savings or unused appropriation from any capital, line-item project to any other requested and funded fiscal year 2013 capital projects. The re-allocation of such appropriation must be approved by the Permanent Building Fund Advisory Council prior to the funds being spent.

Approved April 3, 2012.

CHAPTER 285
(S.B. No. 1400)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2013; 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, \$327,200 from the Capitol Endowment Income Fund, to be expended for operating expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 2. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Administration for the Idaho State Capitol Commission, any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

Approved April 3, 2012.

CHAPTER 286
(S.B. No. 1402)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Division of Financial Management, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,405,100	\$121,600	\$11,200	\$1,537,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Miscellaneous Revenue				
Fund	<u>33,400</u>	<u>7,100</u>	<u>0</u>	<u>40,500</u>
TOTAL	\$1,438,500	\$128,700	\$11,200	\$1,578,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than seventeen (17) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 287
(S.B. No. 1403)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$4,262,900	\$3,983,100		\$24,600	\$8,270,600
Indirect Cost Recovery					
Fund	577,900	512,700			1,090,600
Driver's Training					
Fund	160,000	150,600	\$3,400	2,113,300	2,427,300
Public Instruction					
Fund	629,100	849,800	19,800	11,400	1,510,100
Miscellaneous Revenue					
Fund	878,000	11,141,800	5,400		12,025,200
Federal Grant					
Fund	<u>4,522,300</u>	<u>16,441,200</u>	<u>20,400</u>	<u>82,200</u>	<u>21,066,100</u>
TOTAL	\$11,030,200	\$33,079,200	\$49,000	\$2,231,500	\$46,389,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Superintendent of Public Instruction is authorized no more than one hundred forty-two (142) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 288
(S.B. No. 1404)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF SERVICE INTEGRATION, WELFARE, AND MEDICALLY INDIGENT ADMINISTRATION; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; REQUIRING THE DIVISION OF WELFARE TO SUBMIT QUARTERLY FORECAST REPORTS; DIRECTING EXPENDITURES FOR HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SERVICE INTEGRATION:				
FROM:				
Cooperative Welfare (General)				
Fund	\$766,800	\$124,900		\$891,700
Cooperative Welfare (Dedicated)				
Fund	19,500		\$50,000	69,500
Cooperative Welfare (Federal)				
Fund	<u>1,131,700</u>	<u>165,300</u>	<u>2,900,000</u>	<u>4,197,000</u>
TOTAL	\$1,918,000	\$290,200	\$2,950,000	\$5,158,200
II. WELFARE, DIVISION OF:				
A. SELF-RELIANCE OPERATIONS:				
FROM:				
Cooperative Welfare (General)				
Fund	\$13,556,900	\$5,599,500		\$19,156,400
Cooperative Welfare (Dedicated)				
Fund		2,597,400		2,597,400
Cooperative Welfare (Federal)				
Fund	<u>19,509,800</u>	<u>19,714,400</u>		<u>39,224,200</u>
TOTAL	\$33,066,700	\$27,911,300		\$60,978,000

	FOR	FOR	FOR	
	PERSONNEL	OPERATING	TRUSTEE AND	
	COSTS	EXPENDITURES	BENEFIT	TOTAL
			PAYMENTS	
B. BENEFIT PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$18,226,500	\$18,226,500
Cooperative Welfare (Dedicated)				
Fund			23,500	23,500
Cooperative Welfare (Federal)				
Fund			<u>58,217,400</u>	<u>58,217,400</u>
TOTAL			\$76,467,400	\$76,467,400
DIVISION TOTAL	\$33,066,700	\$27,911,300	\$76,467,400	\$137,445,400
III. MEDICALLY INDIGENT ADMINISTRATION:				
FROM:				
Cooperative Welfare (General)				
Fund	\$117,600	\$15,100		\$132,700
GRAND TOTAL	\$35,102,300	\$28,216,600	\$79,417,400	\$142,736,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Service Integration	36.00
Welfare	591.56
Medically Indigent Administration	1.25

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2013.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. ACTUAL AND FORECAST DETAIL REPORTING. The Division of Welfare shall deliver the Self-Reliance Programs Forecast to the Legislative Services Office and Division of Financial Management no less than quarterly. The report shall include monthly caseload details for Temporary Assistance

for Needy Families (TANF), Child Care, Medicaid, Aid to the Aged, Blind and Disabled, Food Stamps, and Child Support programs. The Self-Reliance Programs Forecast shall also include expenditure details for all of the named programs with the exception of Medicaid. The format of the report, and any additional information contained therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 7. HEAD START APPROPRIATION FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from federal Temporary Assistance for Needy Families funds at the same level paid to the Head Start Program in fiscal year 2007.

SECTION 8. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 289
(S.B. No. 1405)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MENTAL HEALTH SERVICES, PSYCHIATRIC HOSPITALIZATION, AND SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING AN INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT; PROVIDING LEGISLATIVE INTENT FOR SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR THE STATEWIDE MEDIA CAMPAIGN ON UNDERAGE DRINKING; PROVIDING FOR COURT SERVICES FUND TRANSFERS; DIRECTING AN INTERAGENCY REQUEST FOR PROPOSALS FOR A NEW SUBSTANCE ABUSE TREATMENT AND PREVENTION NETWORK MANAGEMENT AND SERVICE COORDINATION CONTRACT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MENTAL HEALTH SERVICES:					
A. CHILDREN'S MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,228,800	\$632,900		\$3,304,000	\$8,165,700
Cooperative Welfare (Dedicated)					
Fund				164,500	164,500
Cooperative Welfare (Federal)					
Fund	<u>1,453,000</u>	<u>1,357,300</u>		<u>1,117,600</u>	<u>3,927,900</u>
TOTAL	\$5,681,800	\$1,990,200		\$4,586,100	\$12,258,100
B. ADULT MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,599,600	\$1,435,900		\$627,500	\$13,663,000
Cooperative Welfare (Dedicated)					
Fund	503,700			350,000	853,700
Drug Court, Mental Health and Family Court Services					
Fund	159,800	98,000			257,800
Cooperative Welfare (Federal)					
Fund	<u>2,749,300</u>	<u>1,152,100</u>		<u>353,700</u>	<u>4,255,100</u>
TOTAL	\$15,012,400	\$2,686,000		\$1,331,200	\$19,029,600
DIVISION TOTAL	\$20,694,200	\$4,676,200		\$5,917,300	\$31,287,700
II. PSYCHIATRIC HOSPITALIZATION:					
A. COMMUNITY HOSPITALIZATION:					
FROM:					
Cooperative Welfare (General)					
Fund				\$2,790,000	\$2,790,000
B. STATE HOSPITAL NORTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$6,020,700	\$512,500		\$17,700	\$6,550,900
Cooperative Welfare (Dedicated)					
Fund	136,300				136,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Hospital North Endowment Income					
Fund	<u>231,100</u>	<u>526,800</u>		<u>44,500</u>	<u>802,400</u>
TOTAL	\$6,388,100	\$1,039,300		\$62,200	\$7,489,600
C. STATE HOSPITAL SOUTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$8,512,300	\$669,000	\$69,600	\$208,400	\$9,459,300
Cooperative Welfare (Dedicated)					
Fund	2,429,700	679,200		900	3,109,800
Mental Hospital Endowment Income					
Fund	2,428,400	461,100			2,889,500
Cooperative Welfare (Federal)					
Fund	<u>3,355,000</u>	<u>1,055,600</u>	<u>0</u>	<u>24,500</u>	<u>4,435,100</u>
TOTAL	\$16,725,400	\$2,864,900	\$69,600	\$233,800	\$19,893,700
DIVISION TOTAL	\$23,113,500	\$3,904,200	\$69,600	\$3,086,000	\$30,173,300
III. SUBSTANCE ABUSE TREATMENT & PREVENTION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$495,400	\$573,500		\$1,455,400	\$2,524,300
Prevention of Minors' Access to Tobacco					
Fund	6,500	43,800			50,300
Cooperative Welfare (Dedicated)					
Fund	45,400	438,300			483,700
Liquor Control					
Fund				650,000	650,000
Cooperative Welfare (Federal)					
Fund	<u>761,400</u>	<u>3,865,900</u>		<u>10,965,000</u>	<u>15,592,300</u>
TOTAL	\$1,308,700	\$4,921,500		\$13,070,400	\$19,300,600
GRAND TOTAL	\$45,116,400	\$13,501,900	\$69,600	\$22,073,700	\$80,761,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Mental Health Services	280.04
Psychiatric Hospitalization	365.45
Substance Abuse Treatment and Prevention	17.34

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2013.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT. The Children's Mental Health Program shall, no later than July 16, 2012, make an interagency payment of \$327,000 from the Cooperative Welfare (General) Fund to the Department of Juvenile Corrections to be used for the purchase of contract clinician services with juvenile detention facilities in Idaho, for the period July 1, 2012, through June 30, 2013.

SECTION 7. STATEWIDE MEDIA CAMPAIGN ON UNDERAGE DRINKING. It is the intent of the Legislature that, for fiscal year 2013, the Substance Abuse Treatment and Prevention Division shall continue to fund at least \$50,000 of the \$1,600,000 prevention budget for the youth and adult media campaign on underage drinking.

SECTION 8. COURT SERVICES FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the Court Services Fund to the Cooperative Welfare Fund periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 9. SUBSTANCE ABUSE NETWORK MANAGEMENT AND SERVICE COORDINATION CONTRACT. It is the intent of the Legislature that the Department of Health and Welfare, and all state agencies that provide substance abuse services, issue a joint request for proposals for contract services to provide administrative support to the coordinated statewide substance abuse system, manage the statewide provider network, coordinate client services, manage and report data per applicable federal and state requirements, track fiscal data for the program, and provide other necessary services as identified by the department and partnering state agencies. The department and partnering state agencies shall issue the request for proposals in time to execute a new contract for such services by June 30, 2013.

SECTION 10. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees,

including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 290
(S.B. No. 1406)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE INFORMATION TECHNOLOGY PROGRAM FOR FISCAL YEAR 2012; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE INSURANCE MANAGEMENT PROGRAM FOR FISCAL YEAR 2012; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 292, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated from the Administration and Accounting Services Fund to the Department of Administration for the Information Technology Program, \$62,900 for personnel costs, for the period July 1, 2011, through June 30, 2012.

SECTION 2. In addition to the appropriation made in Section 2, Chapter 292, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated from the Employee Group Insurance Fund to the Department of Administration for the Insurance Management Program, \$150,000 for personnel costs, for the period July 1, 2011, through June 30, 2012.

SECTION 3. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Administration in Section 3, Chapter 292, Laws of 2011, is increased by three (3) for the period July 1, 2011, through June 30, 2012.

SECTION 4. There is hereby appropriated to the Department of Administration, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
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I. MANAGEMENT SERVICES:

FROM:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General				
Fund	\$145,600	\$48,300		\$193,900
Indirect Cost Recovery				
Fund	647,000	249,500		896,500
Administration and Accounting Services				
Fund	51,200	10,000		61,200
Industrial Special Indemnity				
Fund	<u>153,300</u>	<u>107,500</u>		<u>260,800</u>
TOTAL	\$997,100	\$415,300		\$1,412,400

II. ADMINISTRATIVE RULES:

FROM:

Administrative Code

Fund	\$209,400	\$221,300		\$430,700
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III. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:

FROM:

General

Fund	\$69,600	\$9,600		\$79,200
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Administration and Accounting Services

Fund	<u>429,900</u>	<u>138,200</u>		<u>568,100</u>
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TOTAL	\$499,500	\$147,800		\$647,300
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IV. INFORMATION TECHNOLOGY:

FROM:

General

Fund	\$974,300	\$2,196,600	\$108,000	\$3,278,900
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Idaho Education Network

Fund		1,275,600	100,000	1,375,600
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Indirect Cost Recovery

Fund	445,100	68,500		513,600
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Administration and Accounting Services

Fund	<u>566,200</u>	<u>504,200</u>	<u>0</u>	<u>1,070,400</u>
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TOTAL	\$1,985,600	\$4,044,900	\$208,000	\$6,238,500
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V. PUBLIC WORKS:

FROM:

General

Fund		\$293,100		\$293,100
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Permanent Building

Fund	\$1,759,000	671,100		2,430,100
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Administration and Accounting Services

Fund	<u>1,559,900</u>	<u>5,723,000</u>		<u>7,282,900</u>
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TOTAL	\$3,318,900	\$6,687,200		\$10,006,100
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
VI. PURCHASING:				
FROM:				
General				
Fund	\$694,800			\$694,800
Administration and Accounting Services				
Fund	898,600	\$1,143,900	\$124,200	2,166,700
Federal Surplus Property Revolving				
Fund	<u>115,200</u>	<u>192,200</u>	<u>30,000</u>	<u>337,400</u>
TOTAL	\$1,708,600	\$1,336,100	\$154,200	\$3,198,900
VII. INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance				
Fund	\$425,900	\$470,600		\$896,500
Retained Risk				
Fund	<u>413,600</u>	<u>182,000</u>		<u>595,600</u>
TOTAL	\$839,500	\$652,600		\$1,492,100
GRAND TOTAL	\$9,558,600	\$13,505,200	\$362,200	\$23,426,000

SECTION 5. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred fifty and seventy-five hundredths (150.75) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 6. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the

extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 7. There is hereby appropriated and the State Controller shall transfer \$1,368,750 from the Permanent Building Fund to the Administrative and Accounting Services Fund on July 1, 2012, or as soon thereafter as practicable, and on January 1, 2013, or as soon thereafter as practicable, an amount of \$1,368,750, for a total transfer of \$2,737,500 for the Public Officials' Capitol Mall Facilities payment due in fiscal year 2013.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 291
(S.B. No. 1407)

AN ACT

RELATING TO THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4702, IDAHO CODE, TO PROVIDE THAT FOR THE PURPOSES OF INTERNATIONAL TRADE, THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MAY USE THE TITLE OF SECRETARY OF THE DEPARTMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4702, Idaho Code, be, and the same is hereby amended to read as follows:

67-4702. AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director of the department of commerce, hereafter the director, shall administer the provisions of this chapter and perform such other duties relating to commerce as may be imposed upon him by law. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the department which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government. The director shall have an official seal which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to laws he is charged to implement as he deems proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law, except those powers and duties granted and reserved to the director of the department of labor in titles 44, 45, 63 and 72, Idaho Code, and he shall be the successor in law to all contractual obligations entered into by his predecessors in law, except for those contracts of the department of labor, or contracts pertaining to

any power or duty granted and reserved to the director of the department of labor in titles 44, 45, 63 and 72, Idaho Code.

(6) For the purposes of international trade, the director may use the title of secretary of the department.

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 3, 2012.

CHAPTER 292
(S.B. No. 1409)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND PROVIDING LEGISLATIVE INTENT FOR THE IDAHO GLOBAL ENTREPRENEURIAL MISSION.

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

SECTION 1. There is hereby appropriated to the Department of Commerce, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,218,300	\$885,000		\$2,650,000	\$5,753,300
Tourism and Promotion					
Fund	713,500	3,885,800	\$16,700	3,764,900	8,380,900
Miscellaneous Revenue					
Fund	122,300	157,400			279,700
Small Business Assistance Fund					
Fund				50,000	50,000
Seminars and Publications					
Fund		378,400			378,400
Federal Grant					
Fund	<u>494,300</u>	<u>250,700</u>	<u>2,400</u>	<u>24,443,600</u>	<u>25,191,000</u>
TOTAL	\$3,548,400	\$5,557,300	\$19,100	\$30,908,500	\$40,033,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Commerce is authorized no more than fifty-three (53) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. LEGISLATIVE INTENT. Of the amount appropriated in Section 1 of this act for grants that support the Idaho Global Entrepreneurial Mission, the director has the discretion to use these moneys, as much thereof as is necessary, for the purposes prescribed in House Bill No. 546, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, and for grants toward the goals of the Business and Jobs Development Program. The Department of Commerce, at the request of the co-chairmen, shall report to the Joint Finance-Appropriations Committee, at its interim meeting, on the development of metrics to track return on investment for all its grant programs and overall economic development. After the Joint Finance-Appropriations Committee's interim meeting, the Department of Commerce shall provide biennial updates to the Governor and the Joint Finance-Appropriations Committee for economic development and return on investment.

Approved April 3, 2012.

CHAPTER 293
(S.B. No. 1410)

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING A NON-GENERAL FUND SUPPLEMENTAL APPROPRIATION TO THE EDUCATIONAL SUPPORT PROGRAM FOR FISCAL YEAR 2012; PROVIDING A NON-GENERAL FUND SUPPLEMENTAL APPROPRIATION TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF TEACHERS FOR FISCAL YEAR 2012; STATING FUND SOURCES FOR THE APPROPRIATION TO EDUCATIONAL SUPPORT PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS FOR THE TRANSFER TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF TEACHERS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO

THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF FACILITIES FOR FISCAL YEAR 2013; PROVIDING THE NECESSARY FUNDS FOR THE BOND LEVY EQUALIZATION PROGRAM; LIMITING THE AMOUNT OF REVENUE DISTRIBUTED TO THE GENERAL FUND; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2013; AMENDING SECTION 33-1004E, IDAHO CODE, TO ADJUST BASE AND MINIMUM SALARIES; PROVIDING THAT THE FUNDS FROM THE SCHOOL DISTRICT BUILDING ACCOUNT BE USED AS DISCRETIONARY FUNDS; RELIEVING THE STATE OF THE REQUIREMENT TO PROVIDE SCHOOL MAINTENANCE MATCHING FUNDS; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT; PROVIDING FOR A \$7,500,000 REDUCTION IN TRANSPORTATION COSTS AND DIRECTING THOSE FUNDS TO DISCRETIONARY FUNDS; PROVIDING THAT \$4,381,400 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX MONEYS BE USED AS DISCRETIONARY FUNDS; DIRECTING THE USE OF \$318,600 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX MONEYS; DIRECTING THE USE OF \$9,400,000 FOR READING AND MATH INITIATIVES, AND REMEDIATION; DIRECTING THE USE OF \$4,000,000 FOR LIMITED ENGLISH PROFICIENCY PROGRAMS; DIRECTING THE USE OF \$5,031,000 FOR THE IDAHO DIGITAL LEARNING ACADEMY; PROVIDING THAT NO MONEYS BE APPROPRIATED FOR EXPECTANT OR DELIVERED MOTHERS PROGRAMS; DIRECTING THE USE OF \$2,500,000 FOR INFORMATION TECHNOLOGY STAFFING COSTS; DIRECTING THAT CERTAIN INFORMATION BE COMPILED BY THE STATE DEPARTMENT OF EDUCATION ON THE DUAL ENROLLMENT PROGRAM; GRANTING THE AUTHORITY TO TRANSFER APPROPRIATIONS AMONG FIVE DIVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM; PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 332, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Educational Support Program \$10,470,200 from the Federal Education Jobs Fund to be expended for the period July 1, 2011, through June 30, 2012.

SECTION 2. In addition to the appropriation made in Section 4, Chapter 332, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Educational Support Program/Division of Teachers \$10,470,200 from the Federal Education Jobs Fund to be expended for the period July 1, 2011, through June 30, 2012.

SECTION 3. The following amount shall be expended from state sources for the Educational Support Program, for the period July 1, 2012, through June 30, 2013:

FROM:	
General Fund	\$1,279,818,600
Bond Levy Equalization Fund	4,323,000
School District Building Account	17,350,000
Miscellaneous Revenue	109,200
Public Schools Other Income	9,000,000
School for the Deaf and the Blind Endowment	98,800
Cigarette, Tobacco and Lottery Income Taxes	4,700,000
Public School Endowment Earnings Reserve Fund	31,292,400
Federal Grant	<u>220,121,100</u>
TOTAL	\$1,566,813,100

SECTION 4. There is hereby appropriated the following amount from the listed fund to be transferred to the Public School Income Fund for the period July 1, 2012, through June 30, 2013:

FROM:	
General Fund	\$1,266,741,600

SECTION 5. There is hereby appropriated to the Educational Support Program/Division of Administrators, the following amount to be expended from the listed fund for the period July 1, 2012, through June 30, 2013:

FROM:

Public School Income Fund	\$78,996,600
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SECTION 6. There is hereby appropriated to the Educational Support Program/Division of Teachers, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

Public School Income Fund	\$723,471,100
Federal Grant	<u>30,000,000</u>
TOTAL	\$753,471,100

SECTION 7. There is hereby appropriated to the Educational Support Program/Division of Operations, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

Public School Income Fund	\$474,079,600
School District Building Account	17,350,000
Federal Grant	<u>8,000,000</u>
TOTAL	\$499,429,600

SECTION 8. There is hereby appropriated to the Educational Support Program/Division of Children's Programs, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

Public School Income Fund	\$27,798,800
Federal Grant	<u>182,000,000</u>
TOTAL	\$209,798,800

SECTION 9. There is hereby appropriated to the Educational Support Program/Division of Facilities, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

General Fund	\$13,077,000
Bond Levy Equalization Fund	<u>4,323,000</u>
TOTAL	\$17,400,000

SECTION 10. Of the moneys appropriated to the Educational Support Program, the amount necessary to fund the provisions of Section 33-906, Idaho Code, is hereby transferred and appropriated to the Bond Levy Equalization Fund.

SECTION 11. The provisions of subsection (4) of Section 63-2520, Idaho Code, notwithstanding, the amount of revenue distributed to the General Fund shall be \$13,077,000 for the period July 1, 2012, through June 30, 2013.

SECTION 12. There is hereby appropriated to the Educational Support Program/Division of Educational Services for the Deaf and the Blind, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

Public School Income Fund	\$7,387,900
Miscellaneous Revenue	109,200
School for the Deaf and the Blind Endowment	98,800
Federal Grant	<u>121,100</u>
TOTAL	\$7,717,000

SECTION 13. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. The district instructional staff index shall be multiplied by the instructional base salary of \$23,123. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than ~~\$29,655 for fiscal year 2011, or \$30,000 thereafter~~ \$30,500. The resulting amount is the district's salary-based apportionment for instructional staff. After the base and minimum salaries established pursuant to this subsection have reached the amounts that were in effect in fiscal year 2009, all further increases to these base and minimum salaries shall be allocated such that the percentage increase in the minimum salary is one and one-half (1.5) times the percentage increase in the base salary.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. The district administrative staff index shall be multiplied by the base salary of \$31,833. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply ~~\$18,68419,058~~ by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, adjusted by the following percentages:

Fiscal Year	Percentage
2012	(1.67%)
2013	(4.05%)
2014	(6.30%)
2015	(6.42%)
2016	(6.21%)
2017 and each fiscal year thereafter	(5.74%)

plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 14. Notwithstanding the provisions of Sections 33-905 and 33-1019, Idaho Code, for the period July 1, 2012, through June 30, 2013,

all moneys appropriated from the School District Building Account shall be distributed as discretionary funds within the Educational Support Program/Division of Operations and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 15. Notwithstanding the provisions of Sections 33-1018B and 33-1019, Idaho Code, for the period July 1, 2012, through June 30, 2013, only, the state is hereby temporarily relieved from the requirement to provide its portion of the school maintenance matching funds normally required by such sections, nor shall school districts be required to make up such portion that would otherwise be provided by the state.

SECTION 16. Pursuant to the provisions of Section 33-1018, Idaho Code, for the period July 1, 2012, through June 30, 2013, it is estimated that the appropriation of state funds to the Educational Support Program/Division of Operations will result in total discretionary funds of \$19,706 per support unit.

SECTION 17. Notwithstanding the provisions of Section 33-1006, Idaho Code, for the period July 1, 2012, through June 30, 2013, the total moneys paid to school districts and charter schools for eligible transportation costs shall be reduced by a proportionate amount to equal \$7,500,000 and shall be used as discretionary spending.

SECTION 18. Notwithstanding the provisions of any law to the contrary, of the moneys appropriated in Section 7 of this act, up to \$4,381,400 from funds determined by available tobacco, cigarette and lottery income tax revenues accruing, appropriated, or distributed to the Public School Income Fund pursuant to Sections 63-2506, 63-2552A, 63-3035A and 63-3067, Idaho Code, for the period July 1, 2012, through June 30, 2013, shall be distributed as discretionary funds within the Educational Support Program/Division of Operations, and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 19. Of the moneys appropriated in Section 8 of this act, \$318,600 from funds determined by available revenues accruing, appropriated, or distributed to the Public School Income Fund pursuant to Sections 63-2506, 63-2552A, 63-3035A and 63-3067, Idaho Code, and other such moneys that may become available pursuant to Idaho laws, for the period July 1, 2012, through June 30, 2013, 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 to increase toxicology lab capacity in the Bureau of Forensic Services for drug testing of juveniles. The Superintendent of Public Instruction may use up to \$40,000 for Safe and Drug-Free Schools Program administration, technical assistance, and evaluation; and up to \$78,600 in grants may be authorized to the Commission on Hispanic Affairs.

SECTION 20. Of the moneys appropriated in Section 8 of this act, \$9,400,000 shall be used for literacy programs, as outlined in Sections 33-1207A(2), 33-1614 and 33-1615, Idaho Code; remedial coursework for students failing to achieve proficiency in the Idaho Standards Achievement Test; computerized remediation services to schools; and math initiative efforts, in dollar amounts determined by the Superintendent of Public Instruction. 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. The Superintendent of Public Instruction shall report

to the Joint Finance-Appropriations Committee and the House and Senate Education Committees, by no later than February 1, 2014, on the uses of funds and effectiveness of the programs and efforts.

SECTION 21. Pursuant to Section 33-1617, Idaho Code, of the moneys appropriated in Section 8 of this act, \$4,000,000 shall be distributed for support of programs for students with non-English or limited English proficiency, as follows:

(1) The State Department of Education shall distribute \$3,500,000 to school districts pro rata, based upon the population of limited English proficient students under criteria established by the department.

(2) The State Department of Education shall use \$500,000 for the competitive grant program for school districts in which the population of English language learners failed to meet Adequate Yearly Progress (AYP) in math or reading, as defined in federal law. Of this amount, \$450,000 shall be distributed annually to school districts in three (3) year grant cycles, in which the recipients will receive full grant awards each of the three (3) years, contingent on appropriation. The remaining \$50,000 will be used for evaluation and administration of the program.

(3) The department shall develop the program elements governing the use of these funds, modeled on the training, intervention and remediation elements of the literacy programs referenced in Section 20 of this act. The purpose of these funds is to improve the English language skills of English language learners, to enable such students to better access the educational opportunities offered in public schools. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education Committees by no later than February 1, 2014, on the program design, uses of funds and effectiveness of the program.

SECTION 22. Notwithstanding Section 33-1020, Idaho Code, the Idaho Digital Learning Academy (IDLA), created pursuant to Chapter 55, Title 33, Idaho Code, shall utilize state appropriated funds not to exceed \$5,031,000 for the period July 1, 2012, through June 30, 2013, to achieve the following:

(1) Tuition charged by IDLA to Idaho students shall not exceed \$100.00 per enrollment.

(2) Provide remedial coursework for students failing to achieve proficiency in one (1) or more areas of the Idaho Standards Achievement Test.

(3) Pursuant to the fiscal impact statement for the State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, provide advanced learning opportunities for students.

(4) Pursuant to State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, work with institutions of higher education to provide dual credit coursework.

The preceding list shall not be construed as excluding other instruction and training that may be provided by the Idaho Digital Learning Academy.

SECTION 23. No moneys are appropriated for programs for expectant or delivered mothers for the period July 1, 2012, through June 30, 2013, the provisions of Sections 33-1002, 33-2006 and 33-2007, Idaho Code, notwithstanding.

SECTION 24. Of the moneys appropriated in Section 7 of this act, \$2,500,000 shall be distributed for public school information technology staff costs. Such moneys shall be distributed pursuant to a formula, with a minimum distribution per school district and public charter school, determined by the Superintendent of Public Instruction.

SECTION 25. It is legislative intent that the State Department of Education shall compile information concerning the numbers of students enrolling in dual credit according to the provisions of Section 33-1626, Idaho

Code, whether coursework is successfully completed, and total expenditures for fiscal year 2013. As nearly as possible, the report shall contain information about enrollment of this student population in post-high school education. A report containing such information shall be posted on the website of the State Department of Education no later than December 31, 2013.

SECTION 26. The State Department of Education is hereby granted the authority to transfer appropriations between the Administrators, Teachers, Operations, Children's Programs, and Facilities 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.

SECTION 27. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Educational Support Program/Division of Teachers any unexpended and unencumbered balances of moneys categorized as Federal Education Jobs Funds, in Fund 0348-98, as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 28. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 3, 2012.

CHAPTER 294
(S.B. No. 1412)

AN ACT

RELATING TO ALCOHOL BEVERAGE CONTROL ENFORCEMENT; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2013; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. In addition to the appropriation made in Section 1 of House Bill No. 676, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, there is hereby appropriated to the Idaho State Police, for the Law Enforcement Programs, the following amounts to be expended according to the designated expense classes from the Alcohol Beverage Control Fund for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$832,400
Operating Expenditures	280,800
Capital Outlay	<u>386,800</u>
TOTAL	\$1,500,000

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Idaho State Police in Section 2 of House Bill No. 676, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, is increased by twelve (12) for the period July 1, 2012, through June 30, 2013.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Idaho State Police is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 3, 2012.

CHAPTER 295
(S.B. No. 1413)

AN ACT

RELATING TO APPROPRIATIONS; TO PROVIDE FOR A TRANSFER FROM THE GENERAL FUND TO THE CONSTITUTIONAL DEFENSE COUNCIL FUND FOR FISCAL YEAR 2013.

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

SECTION 1. There is hereby appropriated, and the State Controller shall transfer, \$500,000 from the General Fund to the Constitutional Defense Council Fund, on July 1, 2012, or as soon thereafter as practicable.

Approved April 3, 2012.

CHAPTER 296
(S.B. No. 1414)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF CHILD WELFARE AND DEVELOPMENTALLY DISABLED SERVICES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING EXPENDITURES FOR HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:				
A. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$6,788,600	\$1,569,400		\$8,358,000
Cooperative Welfare (Dedicated)				
Fund	69,300	20,000		89,300
Cooperative Welfare (Federal)				
Fund	<u>15,651,900</u>	<u>5,173,400</u>		<u>20,825,300</u>
TOTAL	\$22,509,800	\$6,762,800		\$29,272,600
B. FOSTER & ASSISTANCE PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$11,432,100	\$11,432,100
Cooperative Welfare (Dedicated)				
Fund			955,400	955,400
Cooperative Welfare (Federal)				
Fund			<u>14,265,900</u>	<u>14,265,900</u>
TOTAL			\$26,653,400	\$26,653,400
DIVISION TOTAL	\$22,509,800	\$6,762,800	\$26,653,400	\$55,926,000
II. DEVELOPMENTALLY DISABLED, SERVICES FOR:				
A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$5,016,000	\$1,112,500	\$2,311,000	\$8,439,500
Cooperative Welfare (Dedicated)				
Fund	815,600	46,300	1,909,800	2,771,700
Cooperative Welfare (Federal)				
Fund	<u>5,016,000</u>	<u>1,047,100</u>	<u>945,900</u>	<u>7,009,000</u>
TOTAL	\$10,847,600	\$2,205,900	\$5,166,700	\$18,220,200
B. SOUTHWEST IDAHO TREATMENT CENTER:				
FROM:				
Cooperative Welfare (General)				
Fund	\$3,099,900	\$340,400	\$78,700	\$3,519,000
Medical Assistance				
Fund		3,500		3,500
Cooperative Welfare (Dedicated)				
Fund	616,200	137,800	10,600	764,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)				
Fund	9,235,600	1,915,100	141,800	11,292,500
TOTAL	\$12,951,700	\$2,396,800	\$231,100	\$15,579,600
GRAND TOTAL	\$46,309,100	\$11,365,500	\$32,051,200	\$89,725,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Child Welfare	380.77
Developmentally Disabled Services	429.01

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2013.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from federal Temporary Assistance for Needy Families funds at the same level as was paid to the Head Start Program in fiscal year 2007.

SECTION 7. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been

rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 3, 2012.

CHAPTER 297
(S.B. No. 1415)

AN ACT

RELATING TO APPROPRIATIONS; AMENDING SECTION 1, CHAPTER 12, LAWS OF 2012, TO REVISE THE APPROPRIATION FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2012; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 12, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Division of Vocational Rehabilitation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:					
FROM:					
General					
Fund	\$64,100	\$23,700		\$3,248,300	\$3,336,100
II. RENAL DISEASE SERVICES:					
FROM:					
General					
Fund	\$67,300			\$437,100	\$504,400
				<u>\$352,700</u>	<u>\$420,000</u>
				<u>\$332,700</u>	<u>\$400,000</u>
III. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,471,800	\$254,800		\$1,188,000	\$2,914,600
				<u>\$1,178,000</u>	<u>\$2,904,600</u>

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
Rehabilitation Revenue and Refunds					
Fund	1,078,500				1,078,500
Miscellaneous Revenue					
Fund				958,500	958,500
Federal Grant					
Fund	<u>6,521,100</u>	<u>1,171,400</u>	<u>\$21,000</u>	<u>6,736,500</u>	<u>14,450,000</u>
TOTAL	\$9,071,400	\$1,426,200	\$21,000	\$8,883,000	\$19,401,600
				<u>\$8,873,000</u>	<u>\$19,391,600</u>

IV. COUNCIL FOR THE DEAF AND HARD OF HEARING:

FROM:

General

Fund	\$40,100				\$40,100
	<u>\$124,500</u>				<u>\$124,500</u>
	<u>\$134,600</u>	<u>\$21,000</u>	<u>\$1,900</u>		<u>\$157,500</u>

Federal Grant

Fund	<u>95,900</u>	<u>\$42,900</u>	<u>\$2,000</u>	<u>\$7,500</u>	<u>148,300</u>
TOTAL	\$136,000	\$42,900	\$2,000	\$7,500	\$188,400

GRAND TOTAL	\$9,338,800	\$1,492,800	\$23,000	\$12,575,900	\$23,430,500
	<u>\$9,327,300</u>	<u>\$1,449,900</u>	<u>\$21,000</u>	<u>\$12,484,000</u>	<u>\$23,282,200</u>
	<u>\$9,337,400</u>	<u>\$1,470,900</u>	<u>\$22,900</u>	<u>\$12,454,000</u>	<u>\$23,285,200</u>

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

Approved April 3, 2012.

CHAPTER 298
(S.B. No. 1416)

AN ACT

RELATING TO APPROPRIATIONS; TRANSFERRING MONEYS FROM THE FEDERAL GRANT FUND TO THE RECORDS MANAGEMENT SERVICE FUND WITHIN THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2013; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2013; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2013; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2013; AND REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2013.

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

SECTION 1. There is hereby appropriated, and the State Controller shall transfer, \$21,400 from the Federal Grant Fund to the Records Management Service Fund within the Idaho State Historical Society on July 1, 2012, or as soon thereafter as practicable.

SECTION 2. In addition to the appropriation made in Section 1 of House Bill No. 644, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, there is hereby appropriated to the Idaho State Historical Society the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund		\$65,000	\$65,000
Records Management Service			
Fund	\$100,000	158,400	258,400
TOTAL	\$100,000	\$223,400	\$323,400

SECTION 3. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Idaho State Historical Society in Section 2 of House Bill No. 644, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, is increased by two (2) for the period July 1, 2012, through June 30, 2013.

SECTION 4. The appropriation made to the Department of Administration in Section 4 of Senate Bill No. 1406, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, is hereby reduced by the following amounts according to the designated expense classes from the Administrative and Accounting Services Fund in the Purchasing Program for the period July 1, 2012, through June 30, 2013:

For Personnel Costs	\$100,000
For Operating Expenditures	137,000
TOTAL	\$237,000

SECTION 5. FTP AUTHORIZATION. The authorization made to the Department of Administration in Section 5 of Senate Bill No. 1406, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, is hereby reduced by two (2) for the period July 1, 2012, through June 30, 2013.

Approved April 3, 2012.

CHAPTER 299
(H.B. No. 632)

AN ACT

RELATING TO YOUTH ATHLETES AND CONCUSSIONS; REPEALING SECTION 33-1625, IDAHO CODE, RELATING TO LEGISLATIVE INTENT, YOUTH ATHLETES AND CONCUSSION GUIDELINES; AND AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1625, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO YOUTH ATHLETES AND CONCUSSION AND HEAD INJURY GUIDELINES AND REQUIREMENTS.

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

SECTION 1. That Section 33-1625, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1625, Idaho Code, and to read as follows:

33-1625. YOUTH ATHLETES -- CONCUSSION AND HEAD INJURY GUIDELINES AND REQUIREMENTS. (1) The state board of education and the Idaho high school activities association shall provide access to appropriate guidelines and information that identify the signs and symptoms of a concussion and head injury and describe the nature and risk of concussion and head injury in accordance with standards of the centers for disease control and prevention through a link on the internet website of the board and the Idaho high school activities association.

(2) This section shall apply to any middle school, junior high school and high school in the state participating in or administering an organized athletic league or sport. For the purposes of this section, "youth athlete" or "athlete" means an individual who is eighteen (18) years of age or younger and who is a participant in any middle school, junior high school or high school athletic league or sport.

(3) At the beginning of each sports season before a youth athlete participates in any organized practice or game, the youth athlete and the youth athlete's parent or guardian shall receive the guidelines and information described in subsection (1) of this section from the school for which the athlete plays, and shall review the guidelines and information. Coaches, referees, game officials, game judges and athletic trainers shall review such guidelines and information upon employment and biannually thereafter.

(4) If during a practice or game or competition, it is reasonably suspected that a youth athlete has sustained a concussion or head injury and exhibits outward signs or symptoms of such, as defined by the centers for disease control and prevention, then the youth athlete shall be removed from play. Every Idaho middle school, junior high school and high school that participates in or offers an organized athletic league shall develop protocol to be followed for removing such athletes from play. Such protocol shall be consistent with concussion and head injury guidelines of the centers for disease control and prevention.

(5) An athlete may be returned to play once the athlete is evaluated and authorized to return by a qualified health care professional who is trained in the evaluation and management of concussions. For the purposes of this section, "qualified health care professional" means and includes any one (1) of the following who is trained in the evaluation and management of concussions:

(a) A physician or physician assistant licensed under chapter 18, title 54, Idaho Code;

(b) An advanced practice nurse licensed under section 54-1409, Idaho Code; or

(c) A licensed health care professional trained in the evaluation and management of concussions who is supervised by a directing physician who is licensed under chapter 18, title 54, Idaho Code.

(6) If an individual reasonably acts in accordance with the protocol developed pursuant to subsection (4) of this section, then acting upon such protocol shall not form the basis of a claim for negligence in a civil action.

(7) Any youth sport organization or association in this state may comply with this section. If a youth sport organization or association is in full compliance with this section, then the youth sport organization or association shall be afforded the same protections from liability in a civil action pursuant to subsection (6) of this section.

Approved April 3, 2012.

CHAPTER 300

(S.B. No. 1255, As Amended, As Amended)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT RECORDS OF INVESTIGATIONS PREPARED BY THE DEPARTMENT OF HEALTH AND WELFARE PURSUANT TO ITS STATUTORY RESPONSIBILITIES DEALING WITH THE PROTECTION OF CHILDREN, THE REHABILITATION OF YOUTH, ADOPTIONS AND THE COMMITMENT OF MENTALLY ILL PERSONS SHALL BE EXEMPT FROM DISCLOSURE, TO PROVIDE THAT FOR REASONS OF HEALTH AND SAFETY, BEST INTERESTS OF THE CHILD OR PUBLIC INTEREST, THE DEPARTMENT OF HEALTH AND WELFARE MAY PROVIDE FOR THE DISCLOSURE OF CERTAIN RECORDS AND TO PROVIDE AN EXCEPTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 9-340B, Idaho Code, be, and the same is hereby amended to read as follows:

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(7), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

- (4) (a) The following records of the department of correction:
- (i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;
 - (ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;
 - (iii) Records that reflect future transportation or movement of a prisoner;
 - (iv) Records gathered during the course of the presentence investigation;
 - (v) Records of a prisoner, as defined in section 9-337(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.
- (b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.
- (c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.
- (5) Voting records of the sexual offender classification board. The written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.
- (6) Records of the sheriff or Idaho state police received or maintained pursuant to sections 18-3302 and 18-3302H, Idaho Code, relating to an applicant or licensee.
- (7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children except any such records regarding adoptions shall remain exempt from disclosure.
- (8) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(9) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(10) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or

(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(14) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

(16) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

SECTION 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, 2012.

CHAPTER 301
(S.B. No. 1274, As Amended in the House)

AN ACT
RELATING TO TEXTING AND DRIVING; AMENDING CHAPTER 14, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1401A, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE INFRACTION PENALTIES FOR TEXTING WHILE DRIVING AND TO PROVIDE APPLICATION TO VIOLATION POINT COUNTS AND MOVING TRAFFIC VIOLATIONS.

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

SECTION 1. That Chapter 14, 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 49-1401A, Idaho Code, and to read as follows:

49-1401A. TEXTING WHILE DRIVING. (1) As used in this section, "texting" means engaging in the review of, or manual preparation and transmission of, written communications via handheld wireless devices. This definition does not include voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function.

(2) Texting, as that term is defined in subsection (1) of this section, while driving a moving motor vehicle shall constitute an infraction provided this does not apply to voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function. Every person who violates this section shall be guilty of an infraction. A conviction under this section shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

Approved April 5, 2012.

CHAPTER 302
(S.B. No. 1294, As Amended)

AN ACT
RELATING TO THE MEDICAL CONSENT AND NATURAL DEATH ACT; AMENDING SECTION 39-4501, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PEOPLE WITH MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-4502, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PEOPLE WHO MAY CONSENT TO THEIR OWN CARE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4504, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PEOPLE WHO MAY GIVE CONSENT TO CARE FOR OTHERS, TO PROVIDE FOR LIMITS ON AUTHORITY FOR A SURROGATE DECISION MAKER AND TO REVISE WHO CAN BE A SURROGATE DECISION MAKER;

AMENDING SECTION 39-4506, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4508, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RESPONSIBILITY FOR CONSENT AND DOCUMENTATION AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-4509, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE A DEFINITION; AMENDING SECTION 39-4510, IDAHO CODE, TO PROVIDE FOR ADVANCED PRACTICE PROFESSIONAL NURSES AND PHYSICIAN ASSISTANTS IN INCORPORATION OF A LIVING WILL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4511, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS RELATING TO DOCUMENTS THAT CAN REVOKE A LIVING WILL AND TO REVISE TERMINOLOGY; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4511B, IDAHO CODE, TO PROVIDE FOR SUSPENSION AND RESUMPTION OF A LIVING WILL; AMENDING SECTION 39-4512A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WHO CAN SIGN AND REVIEW A PHYSICIAN ORDER FOR SCOPE OF TREATMENT FORM, TO REVISE PROVISIONS RELATING TO WHEN A PHYSICIAN ORDER FOR SCOPE OF TREATMENT SHALL BE EFFECTIVE, TO REVISE PROVISIONS RELATING TO WHO MAY WEAR A PHYSICIAN ORDER FOR SCOPE OF TREATMENT IDENTIFICATION DEVICE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-4512B, IDAHO CODE, TO PROVIDE CODE REFERENCES, TO REVISE TERMINOLOGY AND TO PROVIDE FOR A DO NOT RESUSCITATE ORDER IN CONJUNCTION WITH THE PROVISIONS OF THIS CHAPTER; AMENDING SECTION 39-4513, IDAHO CODE, TO PROVIDE FOR A DO NOT RESUSCITATE ORDER OR PHYSICIAN ORDER FOR SCOPE OF TREATMENT IDENTIFICATION DEVICE IN IMMUNITY FROM LIABILITY AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-4514, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES, TO REVISE PROVISIONS RELATING TO PRESUMED CONSENT TO RESUSCITATION AND EXISTING DIRECTIVES, TO REVISE PROVISIONS RELATING TO EXISTING DIRECTIVES AND DIRECTIVES FROM OTHER STATES AND TO REVISE TERMINOLOGY; AND AMENDING SECTION 66-405, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 39-4501, Idaho Code, be, and the same is hereby amended to read as follows:

39-4501. PURPOSES -- APPLICATION. (1) The primary purposes of this chapter are:

(a) To provide and codify Idaho law concerning consent for the furnishing of hospital, medical, dental, ~~or surgical~~ and other health care, treatment or procedures, and concerning what constitutes an informed consent for such health care, treatment or procedures; and

(b) To provide certainty and clarity in the law of medical consent in the furtherance of high standards of health care and its ready availability in proper cases.

(2) Nothing in this chapter shall be deemed to amend or repeal the provisions of chapter 3 or chapter 4, title 66, Idaho Code, as those provisions pertain to hospitalization or commitment of the mentally ill people with mental illness or developmental disability or the powers of guardians of developmentally disabled persons, nor the provisions of chapter 6, title 18, Idaho Code, pertaining to the provision of examinations, prescriptions, devices and informational materials regarding prevention of pregnancy or pertaining to therapeutic abortions and consent to the performance thereof.

(3) Nothing in this chapter shall be construed to permit or require the provision of health care for a patient in contravention of the patient's stated or implied objection thereto upon religious grounds nor shall anything in this chapter be construed to require the granting of permission for or on behalf of any patient who is not able to act for himself by his parent, spouse or guardian in violation of the religious beliefs of the patient or the patient's parent or spouse.

SECTION 2. That Section 39-4502, Idaho Code, be, and the same is hereby amended to read as follows:

39-4502. DEFINITIONS. As used in this chapter:

(1) "Advanced practice professional nurse" (APPN) means a professional nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a nationally accredited program of study as defined by section 54-1402, Idaho Code, and is authorized to perform advanced nursing practice, which may include direct client care such as assessing, diagnosing, planning and prescribing pharmacologic and nonpharmacologic therapeutic and corrective measures, health promotion and preventive care as defined by rules of the board of nursing. The advanced practice professional nurse collaborates with other health professionals in providing health care.

(2) "Artificial life-sustaining procedure" means any medical procedure or intervention that utilizes mechanical means to sustain or supplant a vital function which, when applied to a qualified patient, would serve only to artificially prolong life. "Artificial life-sustaining procedure" does not include the administration of pain management medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

(23) "Artificial nutrition and hydration" means supplying food and water through a conduit, such as a tube or intravenous line, where the recipient is not required to chew or swallow voluntarily, but does not include assisted feeding, such as spoon feeding or bottle feeding.

(34) "Attending physician" means the physician licensed by the state board of medicine who is selected by, or assigned to, the patient and who has primary responsibility for the treatment and care of the patient.

(45) "Cardiopulmonary resuscitation" or "CPR" means measures to restore cardiac function and/or to support ventilation in the event of cardiac or respiratory arrest.

(56) "Comfort care" means treatment and care to provide comfort and cleanliness. "Comfort care" includes:

- (a) Oral and body hygiene;
- (b) Reasonable efforts to offer food and fluids orally;
- (c) Medication, positioning, warmth, appropriate lighting and other measures to relieve pain and suffering; and
- (d) Privacy and respect for the dignity and humanity of the patient.

(67) "Consent to care" includes refusal to consent to care and/or withdrawal of care.

(78) "Directive," "advance directive" or "health care directive" means a document meeting that substantially meets the requirements of section 39-4510(1), Idaho Code, and/or is a "Physician Orders for Scope of Treatment" (POST) form signed by a physician or is another document which represents a competent person's authentic expression of such person's wishes concerning his or her health care.

(89) "Emergency medical services personnel" means personnel engaged in providing initial emergency medical assistance including, but not limited to, first responders, emergency medical technicians and paramedics.

(910) "Health care provider" or "provider" means any person or entity licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession, including emergency or other medical services personnel.

(101) "Persistent vegetative state" means an irreversible state that has been medically confirmed by a neurological specialist who is an expert in the examination of nonresponsive individuals in which the person has intact brain stem function but no higher cortical function and no awareness of self or environment.

(112) "Physician" means a person who holds a current active license to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restriction upon or actions taken against his or her license.

(13) "Physician assistant" (PA) means any person, as defined in section 54-1803, Idaho Code, who is qualified by specialized education, training, experience and personal character and who has been licensed by the board of medicine to render patient services under the direction of a supervising and alternate supervising physician.

(124) "Physician orders for scope of treatment (POST) form" means a standardized form containing orders by a physician that states a person's treatment wishes that satisfies the requirements of section 39-4512A, Idaho Code.

(135) "Physician orders for scope of treatment (POST) identification device" means standardized jewelry which can be worn around the wrist, neck or ankle, and which has been approved by the department of health and welfare. Such jewelry shall be issued only to persons who have a POST form complying with section 39-4512A, Idaho Code, stating that such person has chosen "Do Not Resuscitate: Allow Natural Death (No Code/DNR/DNAR): No CPR or advanced cardiac life support interventions" or the equivalent choice.

(16) "Surrogate decision maker" means the person authorized to consent to or refuse health care for another person as specified in section 39-4504(1), Idaho Code.

(147) "Terminal condition" means an incurable or irreversible condition which, without the administration of life-sustaining procedures, will, in the opinion of a physician, result in death if it runs its usual course.

SECTION 3. That Section 39-4503, Idaho Code, be, and the same is hereby amended to read as follows:

39-4503. PERSONS WHO MAY CONSENT TO THEIR OWN CARE. Any person of ordinary intelligence and awareness sufficient for him or her generally to who comprehends the need for, the nature of and the significant risks ordinarily inherent in, any contemplated hospital, medical, dental, or surgical or other health care, treatment or procedure is competent to consent thereto on his or her own behalf. Any health care provider may provide such health care and services in reliance upon such a consent if the consenting person appears to the health care provider securing the consent to possess such requisite intelligence and awareness comprehension at the time of giving the consent.

SECTION 4. That Section 39-4504, Idaho Code, be, and the same is hereby amended to read as follows:

39-4504. PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS. (1) Consent for the furnishing of hospital, medical, dental, or surgical or other health care, treatment or procedures to any person who is not then capable of giving such consent as provided in this chapter or who is a minor or incompetent person, may be given or refused in the order of priority set forth hereafter unless the patient is a competent person who has refused to give such consent, and provided further that this subsection shall not be deemed to authorize any person to override the express refusal by a competent patient to give such consent himself; provided however, that the surrogate decision maker shall have sufficient comprehension as required to consent to his or her own health care pursuant to the provisions of section 39-4503, Idaho Code; and provided further that the surrogate decision maker shall not have authority to consent to or refuse health care contrary to such person's advance directives, POST or wishes expressed by such person while the person was capable of consenting to his or her own health care:

(a) The legal court appointed guardian of such person;

(b) The person named in a another person's "Living Will and Durable Power of Attorney for Health Care" pursuant to section 39-4510, Idaho Code, or a similar document authorized by this chapter if the conditions in such living will for authorizing the agent to act have been satisfied;

(c) If married, the spouse of such person;

(d) An adult child of such person;

(e) A parent of such person;

(f) The person named in a delegation of parental authority executed pursuant to section 15-5-104, Idaho Code;

(g) Any relative representing of such person who represents himself or herself to be an appropriate, responsible person to act under the circumstances;

(h) Any other competent individual representing himself or herself to be responsible for the health care of such person; or

(i) If the subject person presents a medical emergency or there is a substantial likelihood of his or her life or health being seriously endangered by withholding or delay in the rendering of such hospital, medical, dental, ~~or surgical~~ or other health care to such patient person and the subject person has not communicated and is unable to communicate his or her treatment wishes, the attending ~~physician or dentist~~ health care provider may, in his or her discretion, authorize and/or provide such health care, ~~treatment or procedure~~ as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such ~~physician or dentist~~ health care provider, may proceed as if informed, valid consent therefor had been otherwise duly given.

(2) No person who, in good faith, gives consent or authorization for the provision of hospital, medical, dental, ~~or surgical~~ or other health care, treatment or procedures to another person as provided by this chapter shall be subject to civil liability therefor.

(3) No health care provider who, in good faith, obtains consent from a person pursuant to either section 39-4503 or 39-4504(1), Idaho Code, shall be subject to civil liability therefor.

SECTION 5. That Section 39-4506, Idaho Code, be, and the same is hereby amended to read as follows:

39-4506. SUFFICIENCY OF CONSENT. Consent, or refusal to consent, for the furnishing of ~~hospital, medical, dental or surgical~~ health care, treatment or procedures shall be valid in all respects if the person giving or refusing the consent is sufficiently aware of pertinent facts respecting the need for, the nature of, and the significant risks ordinarily attendant upon, such a patient person receiving such care, as to permit the giving or withholding of such consent to be a reasonably informed decision. Any such consent shall be deemed valid and so informed if the ~~physician or dentist~~ health care provider to whom it is given or by whom it is secured has made such disclosures and given such advice respecting pertinent facts and considerations as would ordinarily be made and given under the same or similar circumstances, by a like ~~physician or dentist~~ health care provider of good standing practicing in the same community. As used in this section, the term "in the same community" refers to that geographic area ordinarily served by the licensed general hospital at or nearest to which such consent is given.

SECTION 6. That Section 39-4508, Idaho Code, be, and the same is hereby amended to read as follows:

39-4508. RESPONSIBILITY FOR CONSENT AND DOCUMENTATION. Obtaining sufficient consent for health care is the duty of the attending ~~physician~~

~~or dentist or of another physician or dentist acting on his or her behalf or actually providing the contemplated care, treatment or procedure~~ health care provider upon whose order or at whose direction the contemplated health care, treatment or procedure is rendered; provided however, a licensed hospital and any medical or dental office employee of a health care provider, acting with the approval of such an attending or other physician or dentist individual health care provider, may perform the ministerial act of documenting such consent by securing the completion and execution of a form or statement in which the giving of consent for such care is documented by or on behalf of the patient person. In performing such a ministerial act, the hospital or medical or dental office health care provider employee shall not be deemed to have engaged in the practice of medicine or dentistry.

SECTION 7. That Section 39-4509, Idaho Code, be, and the same is hereby amended to read as follows:

39-4509. STATEMENT OF POLICY -- DEFINITION. For purposes of sections 39-4509 through 39-4515, Idaho Code:

(1) The legislature recognizes the established common law and the fundamental right of ~~adult~~ competent persons to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn. The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits. The legislature further finds that ~~patients~~ persons are sometimes unable to express their desire to withhold or withdraw such artificial life prolongation procedures which provide nothing medically necessary or beneficial to the ~~patient~~ person because of the ~~patient's~~ person's inability to communicate with the ~~physieian~~ health care provider.

(2) In recognition of the dignity and privacy which ~~patients~~ persons have a right to expect, the legislature hereby declares that the laws of this state shall recognize the right of a competent person to have his or her wishes for medical treatment and for the withdrawal of artificial life-sustaining procedures carried out even though that person is no longer able to communicate with the ~~physieian~~ health care provider.

(3) It is the intent of the legislature to establish an effective means for such communication. It is not the intent of the legislature that the procedures described in sections 39-4509 through 39-4515, Idaho Code, are the only effective means of such communication, and nothing in sections 39-4509 through 39-4515, Idaho Code, shall impair or supersede any legal right or legal responsibility which a person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. Any authentic expression of a person's wishes with respect to health care should be honored.

(4) "Competent person" means any ~~emancipated minor or person eighteen (18) or more years of age who is of sound mind~~ who meets the requirements of section 39-4503, Idaho Code.

SECTION 8. That Section 39-4510, Idaho Code, be, and the same is hereby amended to read as follows:

39-4510. LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE. (1) Any competent person may execute a document known as a "Living Will and Durable Power of Attorney for Health Care." Such document shall be in substantially the following form, or in another form that contains the elements set forth in this chapter. Any portions of the "Living Will and Durable Power of Attorney for Health Care" which are left blank by the person executing the document shall be deemed to be intentional and shall not invalidate the document.

LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Date of Directive:.....

Name of person executing Directive:

Address of person executing Directive:

A LIVING WILL

A Directive to Withhold or to Provide Treatment

1. I willfully and voluntarily make known my desire that my life shall not be prolonged artificially under the circumstances set forth below. This Directive shall only be effective if I am unable to communicate my instructions and:

a. I have an incurable or irreversible injury, disease, illness or condition, and a medical doctor who has examined me has certified:

- 1. That such injury, disease, illness or condition is terminal; and
- 2. That the application of artificial life-sustaining procedures would serve only to prolong artificially my life; and
- 3. That my death is imminent, whether or not artificial life-sustaining procedures are utilized; or

b. I have been diagnosed as being in a persistent vegetative state.

In such event, I direct that the following marked expression of my intent be followed, and that I receive any medical treatment or care that may be required to keep me free of pain or distress.

Check one box and initial the line after such box:

..... I direct that all medical treatment, care and procedures necessary to restore my health and sustain my life be provided to me. Nutrition and hydration, whether artificial or nonartificial, shall not be withheld or withdrawn from me if I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition.

OR

..... I direct that all medical treatment, care and procedures, including artificial life-sustaining procedures, be withheld or withdrawn, except that nutrition and hydration, whether artificial or nonartificial shall not be withheld or withdrawn from me if, as a result, I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition, as follows: (If none of the following boxes are checked and initialed, then both nutrition and hydration, of any nature, whether artificial or nonartificial, shall be administered.)

Check one box and initial the line after such box:

- A. Only hydration of any nature, whether artificial or nonartificial, shall be administered;
- B. Only nutrition, of any nature, whether artificial or nonartificial, shall be administered;
- C. Both nutrition and hydration, of any nature, whether artificial or nonartificial shall be administered.

OR

..... I direct that all medical treatment, care and procedures be withheld or withdrawn, including withdrawal of the administration of artificial nutrition and hydration.

2. If I have been diagnosed as pregnant, this Directive shall have no force during the course of my pregnancy.

3. I understand the full importance of this Directive and am mentally competent to make this Directive. No participant in the making of this Directive or in its being carried into effect shall be held responsible in any way for complying with my directions.

4. Check one box and initial the line after such box:

..... I have discussed these decisions with my physician, advanced practice professional nurse or physician assistant and have also completed a Physician Orders for Scope of Treatment (POST) form that contains directions that may be more specific than, but are compatible with, this Directive. I hereby approve of those orders and incorporate them herein as if fully set forth.

OR

..... I have not completed a Physician Orders for Scope of Treatment (POST) form. If a POST form is later signed by my physician, advanced practice professional nurse or physician assistant, then this living will shall be deemed modified to be compatible with the terms of the POST form.

A DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. DESIGNATION OF HEALTH CARE AGENT. None of the following may be designated as your agent: (1) your treating health care provider; (2) a nonrelative employee of your treating health care provider; (3) an operator of a community care facility; or (4) a nonrelative employee of an operator of a community care facility. If the agent or an alternate agent designated in this Directive is my spouse, and our marriage is thereafter dissolved, such designation shall be thereupon revoked.

I do hereby designate and appoint the following individual as my attorney in fact (agent) to make health care decisions for me as authorized in this Directive. (Insert name, address and telephone number of one individual only as your agent to make health care decisions for you.)

Name of Health Care Agent:
Address of Health Care Agent:
Telephone Number of Health Care Agent:

For the purposes of this Directive, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat an individual's physical condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this portion of this Directive, I create a durable power of attorney for health care. This power of attorney shall not be affected by my subsequent incapacity. This power shall be effective only when I am unable to communicate rationally.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this Directive or otherwise made known to my agent including, but not limited to, my desires concerning obtaining or refusing or withdrawing artificial life-sustaining care, treatment, services and procedures, including such desires set forth in a living will, Physician Orders for Scope of Treatment (POST) form, or similar document executed by me, if any. (If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below. You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS. (Your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, state your desires in the space provided below. You should consider whether you want to include a statement of your desires concerning artificial life-sustaining care, treatment, services and procedures. You can also include a statement of your desires concerning other matters relating to your health care, including a list of one or more persons whom you designate to be able to receive medical information about you and/or to be allowed to visit you in a medical institution. You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this Directive, you should state the limits in the space below. If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.) In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated in my Physician Orders for Scope of Treatment (POST) form, a living will, or similar document executed by me, if any. Additional statement of desires, special provisions, and limitations:.....(You may attach additional pages or documents if you need more space to complete your statement.)

5. INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH.

A. General Grant of Power and Authority. Subject to any limitations in this Directive, my agent has the power and authority to do all of the following: (1) Request, review and receive any information, verbal or written, regarding my physical or mental health including, but not limited to, medical and hospital records; (2) Execute on my behalf any releases or other documents that may be required in order to obtain this information; (3) Consent to the disclosure of this information; and (4) Consent to the donation of any of

my organs for medical purposes. (If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

B. HIPAA Release Authority. My agent shall be treated as I would be with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160 through 164. I authorize any physician, health care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy, or other covered health care provider, any insurance company, and the MIB Group, Inc. (formerly the Medical Information Bureau, Inc.) or other health care clearinghouse that has provided treatment or services to me, or that has paid for or is seeking payment from me for such services, to give, disclose and release to my agent, without restriction, all of my individually identifiable health information and medical records regarding any past, present or future medical or mental health condition, including all information relating to the diagnosis of HIV/AIDS, sexually transmitted diseases, mental illness, and drug or alcohol abuse. The authority given my agent shall supersede any other agreement that I may have made with my health care providers to restrict access to or disclosure of my individually identifiable health information. The authority given my agent has no expiration date and shall expire only in the event that I revoke the authority in writing and deliver it to my health care provider.

6. SIGNING DOCUMENTS, WAIVERS AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this Directive to make, my agent has the power and authority to execute on my behalf all of the following: (a) Documents titled, or purporting to be, a "Refusal to Permit Treatment" and/or a "Leaving Hospital Against Medical Advice"; and (b) Any necessary waiver or release from liability required by a hospital or physician.

7. DESIGNATION OF ALTERNATE AGENTS. (You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1 above, in the event that agent is unable or ineligible to act as your agent. If an alternate agent you designate is your spouse, he or she becomes ineligible to act as your agent if your marriage is thereafter dissolved.) If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this Directive, such persons to serve in the order listed below:

A. First Alternate Agent:

Name
Address
Telephone Number

B. Second Alternate Agent:

Name
Address
Telephone Number

C. Third Alternate Agent:

Name
Address
Telephone Number

8. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL. (You must date and sign this Living Will and Durable Power of Attorney for Health Care.)

I sign my name to this Statutory Form Living Will and Durable Power of Attorney for Health Care on the date set forth at the beginning of this Form at (City, State).....

.....
Signature

(2) A health care directive meeting the requirements of subsection (1) of this section may be registered with the secretary of state pursuant to the provisions of section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

SECTION 9. That Section 39-4511, Idaho Code, be, and the same is hereby amended to read as follows:

39-4511A. REVOCATION. (1) A living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form or other similar advance directive may be revoked at any time by the maker thereof by any of the following methods:

- (a) By being intentionally canceled, defaced, obliterated or burned, torn, or otherwise destroyed by the maker thereof, or by some person in his presence and by his direction;
(b) By a written, signed revocation of the maker thereof expressing his intent to revoke; or
(c) By an oral expression by the maker thereof expressing his intent to revoke.

(2) The maker of the revoked living will and durable power of attorney for health care is responsible for notifying his physician health care provider of the revocation.

(3) There shall be no criminal or civil liability on the part of any person for the failure to act upon a revocation of a living will and durable power of attorney for health care, or physician orders for scope of treatment (POST) form or other advance directive made pursuant to this section chapter unless that person has actual knowledge of the revocation.

SECTION 10. That Chapter 45, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4511B, Idaho Code, and to read as follows:

39-4511B. SUSPENSION. (1) A living will and durable power of attorney for health care, physician orders for scope of treatment (POST) form or other similar advance directive may be suspended at any time by the maker thereof by any of the following methods:

- (a) By a written, signed suspension by the maker thereof expressing his intent to suspend; or
(b) By an oral expression by the maker thereof expressing his intent to suspend.

(2) Upon meeting the termination terms of the suspension, as defined by the written or oral expression by the maker, the conditions set forth in the living will and durable power of attorney, physician orders for scope of treatment (POST) or other similar advance directive will resume.

SECTION 11. That Section 39-4512A, Idaho Code, be, and the same is hereby amended to read as follows:

39-4512A. PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST). (1) A physician orders for scope of treatment (POST) form is ~~appropriate in cases where a patient has an incurable or irreversible injury, disease, illness or condition, or where a patient is in a persistent vegetative state. A POST form is also appropriate if such conditions are anticipated~~ a health care provider order signed by a physician or by a PA or by an APPN. The POST form must also be signed by the person, or it must be signed by the person's surrogate decision maker provided that the POST form is not contrary to the person's last known expressed wishes or directions.

(2) The POST form shall be effective from the date of execution unless otherwise suspended or revoked. ~~If there is a conflict between the person's expressed directives, the POST form, and the decisions of the durable power of attorney representative or surrogate, the orders contained in the POST form shall be followed.~~

(3) The attending physician, APPN or PA shall, upon request of the patient person or the person's surrogate decision maker, provide the patient person or the person's surrogate decision maker with a copy of the POST form, discuss with the patient person or the person's surrogate decision maker the form's content and ramifications and treatment options, and assist the patient person or the person's surrogate decision maker in the completion of the form.

(4) The attending physician, APPN or PA shall review the POST form:

(a) Each time the physician, APPN or PA examines the patient person, or at least every seven (7) days, for patients persons who are hospitalized; and

(b) Each time the patient person is transferred from one (1) care setting or care level to another; and

(c) Any time there is a substantial change in the patient's person's health status; and

(d) Any time the patient's person's treatment preferences change.

Failure to meet these review requirements does not affect the POST form's validity or enforceability. As conditions warrant, the physician, APPN or PA may issue a superseding POST form. The physician, APPN or PA shall, whenever practical, consult with the patient person or the patient's agent person's surrogate decision maker.

(5) A patient person who has completed a POST form signed by a physician pursuant to the provisions of this section or for whom a POST form has been completed at the request of his or her surrogate decision maker may wear a POST identification device as provided in section 39-4502(135), Idaho Code.

(6) The department of health and welfare shall develop the POST form.

SECTION 12. That Section 39-4512B, Idaho Code, be, and the same is hereby amended to read as follows:

39-4512B. ADHERENCE TO PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST) PROTOCOL. (1) Health care providers and emergency medical services personnel shall comply with a patient's person's physician orders for scope of treatment (POST) instruction when presented with a completed POST form signed by a physician that meets the requirements of section 39-4512A, Idaho Code, or when a patient person is wearing a proper POST identification device pursuant to section 39-4512A(5), Idaho Code.

(2) A completed POST form that meets the requirements of section 39-4512A, Idaho Code, is deemed to meet the requirements of "Do Not Resuscitate (DNR)" ~~forms of orders at~~ all Idaho health care facilities. Health care providers and emergency medical services personnel shall not require the completion of other forms in order for the patient's person's wishes to be respected.

(3) Nothing in this chapter is intended to nor shall it prevent physicians or other health care providers from executing or utilizing DNR orders consistent with their licensure; provided however, that if the person or person's surrogate decision maker chooses to utilize the POST form, the health care provider shall accept and comply with the POST form and shall not require the completion of a DNR order in addition to a valid POST form.

SECTION 13. That Section 39-4513, Idaho Code, be, and the same is hereby amended to read as follows:

39-4513. IMMUNITY. (1) No emergency medical services personnel, health care provider, facility, or individual employed by, acting as the agent of, or under contract with any such health care provider or facility shall be civilly or criminally liable or subject to discipline for unprofessional conduct for acts or omissions carried out or performed in good faith pursuant to the directives in a facially valid POST form, ~~or living will or by the holder of a facially valid durable power of attorney or directive for health care, DNR order or other health care directive, or pursuant to a POST identification device as provided for in section 39-4512A(5), Idaho Code.~~

(2) Any physician or other health care provider who for ethical or professional reasons is incapable or unwilling to conform to the desires of the patient person as expressed by the procedures set forth in this chapter may withdraw without incurring any civil or criminal liability provided the physician or other health care provider, before withdrawal of his or her participation, makes a good faith effort to assist the patient person in obtaining the services of another physician or other health care provider who is willing to provide care for the patient person in accordance with the patient's person's expressed or documented wishes.

(3) No person who exercises the responsibilities of a durable power of attorney for health care in good faith shall be subject to civil or criminal liability as a result.

(4) Neither the registration of a health care directive in the health care directive registry under section 39-4515, Idaho Code, nor the revocation of such a directive requires a health care provider to request information from that registry. The decision of a health care provider to request or not to request a health care directive document from the registry shall be immune from civil or criminal liability. A health care provider who in good faith acts in reliance on a facially valid health care directive received from the health care directive registry shall be immune from civil or criminal liability for those acts done in such reliance.

(5) Health care providers and emergency medical services personnel may disregard the POST form or a POST identification device or a DNR order:

- (a) If they believe in good faith that the order has been revoked; or
- (b) To avoid oral or physical confrontation; or
- (c) If ordered to do so by the attending physician.

SECTION 14. That Section 39-4514, Idaho Code, be, and the same is hereby amended to read as follows:

39-4514. GENERAL PROVISIONS. (1) Application. This chapter Sections 39-4510 through 39-4512B, Idaho Code, shall have no effect or be in any manner construed to apply to persons not executing a living will and durable power of attorney for health care, ~~or POST form or other health care di-~~

rective pursuant to this chapter nor shall ~~it~~ these sections in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care; ~~neither shall this chapter sections 39-4510 through 39-4512B, Idaho Code, be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.~~

(2) Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or assisted suicide or permit an affirmative or deliberate act or omission to end life, including any act or omission described in section 18-4017, Idaho Code, other than to allow the natural process of dying.

(3) Comfort care. ~~Individuals~~ Persons caring for a ~~patient person~~ for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.

(4) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:

(a) ~~A completed living will for that person is in effect, pursuant to section 39-4510, Idaho Code, and the person is in a terminal condition or persistent vegetative state; or~~

~~(b) A completed durable power of attorney for health care or living will for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has indicated stated that he or she does not wish to receive cardiopulmonary resuscitation, and any terms set forth in the durable power of attorney for health care or living will upon which such statement is conditioned have been met; or~~

~~(b) his or her representative The person's surrogate decision maker has determined that communicated the person's would not wishes not to receive cardiopulmonary resuscitation and any terms on which the wishes not to receive cardiopulmonary resuscitation are conditioned have been met; or~~

(c) ~~The patient person has a completed physician orders for scope of treatment (POST) form indicating otherwise that meets the requirements of section 39-4512A, Idaho Code, stating that the person does not wish to receive cardiopulmonary resuscitation and any terms on which the statement is conditioned have been met and/or has a proper POST identification device pursuant to section 39-4502 (135), Idaho Code.~~

(5) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile.

(6) Existing directives and directives from other states. A health care directive executed prior to July 1, ~~2007~~ 2012, but which was in the living will, durable power of attorney for health care, DNR, or POST form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. Health care directives or similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter. This section shall be liberally construed to give the effect to any authentic expression of the person's prior wishes or directives concerning his or her health care.

(7) Insurance.

(a) The making of a living will and/or durable power of attorney for health care, ~~or~~ physician orders for scope of treatment (POST) form, or DNR order pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of

artificial life-sustaining procedures from an insured patient person, notwithstanding any term of the policy to the contrary.

(b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form, or DNR order as a condition for being insured for, or receiving, health care services.

(8) Portability and copies.

(a) A ~~completed~~ physician orders for scope of treatment (POST) form signed by a physician that meets the requirements of section 39-4512A, Idaho Code, shall be transferred with the patient person to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511A, Idaho Code, or new orders are issued by a physician, APPN or PA.

(b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a patient person.

(9) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

(10) Rulemaking authority.

(a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.

(b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification devices to be used statewide.

SECTION 15. That Section 66-405, Idaho Code, be, and the same is hereby amended to read as follows:

66-405. ORDER IN PROTECTIVE PROCEEDINGS. (1) If it is determined that the respondent is not developmentally disabled but appears in need of protective services, the court may cause the proceeding to be expanded or altered for consideration under the uniform probate code.

(2) If it is determined that the respondent is able to manage financial resources and meet essential requirements for physical health or safety, the court shall dismiss the petition.

(3) If it is determined that the respondent is developmentally disabled and is unable to manage some financial resources or meet some essential requirements for physical health or safety, the court may appoint a partial guardian and/or partial conservator on behalf of the respondent. An order establishing partial guardianship or partial conservatorship shall define the powers and duties of the partial guardian or partial conservator so as to permit the respondent to meet essential requirements for physical health or safety and to manage financial resources commensurate with his ability to do so, and shall specify all legal restrictions to which he is subject. A person for whom a partial guardianship or partial conservatorship has been appointed under this chapter retains all legal and civil rights except those which have by court order been limited or which have been specifically granted to the partial guardian or partial conservator by the court.

(4) If it is determined that the respondent is developmentally disabled and is unable to manage financial resources or meet essential requirements

for physical health or safety even with the appointment of a partial guardian or partial conservator, the court may appoint a total guardian and/or total conservator.

(5) In the event that more than one (1) person seeks to be appointed guardian and/or conservator, the court shall appoint the person or persons most capable of serving on behalf of the respondent; the court shall not customarily or ordinarily appoint the department or any other organization or individual, public or private, that is or is likely to be providing services to the respondent. If an appointment of a guardian is made by will pursuant to section 15-5-301, Idaho Code, such appointment shall be entitled to preference as the guardian under this chapter, if the person so appointed by will is capable of serving on behalf of the respondent and the court finds that it is not in the best interests of the respondent to appoint a different person as guardian.

(6) Subject to the limitations of the provisions of subsection (7) of this section, guardians or conservators may have any of the duties and powers as provided in sections 15-5-312(1) (a) through (d), 15-5-424 and 15-5-425, Idaho Code, and as specified in the order. Any order appointing a partial or total guardian or partial or total conservator under the provisions of this section must require a report to the court at least annually. In addition to such other requirements imposed by law or order, the report shall include:

- (a) A description of the respondent's current mental, physical and social condition;
- (b) The respondent's present address and living arrangement;
- (c) A description of any significant changes in the capacity of the respondent to meet essential requirements for physical health or safety or to manage financial resources;
- (d) A description of services being provided the respondent;
- (e) A description of significant actions taken by the guardian or conservator during the reporting period;
- (f) Any significant problems relating to the guardianship or conservatorship;
- (g) A complete financial statement of the financial resources under the control or supervision of the guardian or conservator; and
- (h) A description of the need for continued guardianship or conservatorship services.

(7) No guardian appointed under this chapter shall have the authority to refuse or withhold consent for medically necessary treatment when the effect of withholding such treatment would seriously endanger the life or health and well-being of the person with a developmental disability. To withhold or attempt to withhold such treatment shall constitute neglect of the person and be cause for removal of the guardian. No physician or caregiver shall withhold or withdraw such treatment for a respondent whose condition is not terminal or whose death is not imminent. If the physician or caregiver cannot obtain valid consent for medically necessary treatment from the guardian, he shall provide the medically necessary treatment as authorized by section 39-4504(1) (gi), Idaho Code.

(8) A guardian appointed under this chapter may consent to withholding or withdrawal of artificial life-sustaining procedures, only if the respondent:

- (a) Has an incurable injury, disease, illness or condition, certified by the respondent's attending physician and at least one (1) other physician to be terminal such that the application of artificial life-sustaining procedures would not result in the possibility of saving or significantly prolonging the life of the respondent, and would only serve to prolong the moment of the respondent's death for a period of hours, days or weeks, and where both physicians certify that death is imminent, whether or not the life-sustaining procedures are used; or

(b) Has been diagnosed by the respondent's attending physician and at least one (1) other physician as being in a persistent vegetative state which is irreversible and from which the respondent will never regain consciousness.

(9) Any person, who has information that medically necessary treatment of a respondent has been withheld or withdrawn, may report such information to adult protective services or to the Idaho protection and advocacy system for people with developmental disabilities, who shall have the authority to investigate the report and in appropriate cases to seek a court order to ensure that medically necessary treatment is provided.

If adult protective services or the protection and advocacy system determines that withholding of medical treatment violates the provisions of this section, they may petition the court for an ex parte order to provide or continue the medical treatment in question. If the court finds, based on affidavits or other evidence, that there is probable cause to believe that the withholding of medical treatment in a particular case violates the provisions of this section, and that the life or health of the patient is endangered thereby, the court shall issue an ex parte order to continue or to provide the treatment until such time as the court can hear evidence from the parties involved. Petitions for court orders under this section shall be expedited by the courts and heard as soon as possible. No bond shall be required of a petitioner under this section.

(10) No partial or total guardian or partial or total conservator appointed under the provisions of this section may without specific approval of the court in a proceeding separate from that in which such guardian or conservator was appointed:

- (a) Consent to medical or surgical treatment the effect of which permanently prohibits the conception of children by the respondent unless the treatment or procedures are necessary to protect the physical health of the respondent and would be prescribed for a person who is not developmentally disabled;
- (b) Consent to experimental surgery, procedures or medications; or
- (c) Delegate the powers granted by the order.

Approved April 5, 2012.

CHAPTER 303
(S.B. No. 1309)

AN ACT

RELATING TO RETAIL SALES OF PSEUDOEPHEDRINE PRODUCTS; AMENDING SECTION 37-3303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MAXIMUM QUANTITIES OF PSEUDOEPHEDRINE THAT CAN BE PURCHASED, TO PROVIDE THAT RETAILERS SHALL USE AN ELECTRONIC TRACKING SYSTEM IN THE SALE OF PSEUDOEPHEDRINE PRODUCTS, TO PROVIDE EXEMPTIONS FOR RETAILERS AND TO DEFINE A TERM; AMENDING CHAPTER 33, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-3303A, IDAHO CODE, TO PROVIDE FOR AN ELECTRONIC TRACKING SYSTEM FOR PSEUDOEPHEDRINE SALES, TO PROVIDE FOR REQUIRED INFORMATION, TO PROVIDE FOR THE USE OF RECORDS GATHERED, TO AUTHORIZE THE BOARD OF PHARMACY TO PROMULGATE AND ENFORCE RULES AND TO LIMIT THE LIABILITY OF RETAILERS.

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

SECTION 1. That Section 37-3303, Idaho Code, be, and the same is hereby amended to read as follows:

37-3303. LIMITATIONS ON SALES AND PURCHASES. (1) It shall be unlawful for any retailer to knowingly sell, transfer or otherwise furnish in a single transaction day a pseudoephedrine product or products containing more than nine a base amount of three and six-tenths (93.6) grams of pseudoephedrine.

(2) It shall be unlawful for any person to knowingly purchase from a retailer more than the daily sales limit of a pseudoephedrine product or products containing a base amount of three and six-tenths (3.6) grams per purchaser or more than a base amount of nine (9) grams of pseudoephedrine from a retailer in a single thirty (30) day period, regardless of the number of transactions.

(3) At the time of distribution or sale of a pseudoephedrine product or products, the retailer shall ensure that not sell the pseudoephedrine product unless the purchaser presents a government-issued photo photographic identification card issued by a state or by the federal government.

(4) (a) A retailer shall, before completing a sale under the provisions of this section, submit the required information to the electronic sales tracking system established under section 37-3303A, Idaho Code, as long as such a system is available without charge to the retailer for accessing the system. The retailer may not complete the sale if the system generates a stop sale alert, except as permitted in section 37-3303A, Idaho Code.

(b) If a retailer selling a nonprescription pseudoephedrine product experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, he or she shall make available for inspection by any law enforcement officer or board inspector during normal business hours the logbook required by the federal combat methamphetamine epidemic act of 2005 until such time as he or she is able to comply with the electronic sales tracking requirement.

(c) A retailer selling a nonprescription pseudoephedrine product may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the board of pharmacy stating the reasons for the exemption. The board may grant an exemption for good cause shown, but in no event shall a granted exemption exceed one hundred eighty (180) days. The board may grant multiple exemptions for any retailer if the good cause shown indicates significant hardship for compliance with this section. A retailer that receives an exemption shall make available for inspection by any law enforcement officer or board inspector during normal business hours the logbook required by the federal combat methamphetamine epidemic act of 2005. For purposes of this subsection, "good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the system is unavailable or cost prohibitive to the retailer.

(d) A retailer may withdraw from participating in the electronic sales tracking system if the system is no longer being furnished without charge for accessing the system. A retailer who withdraws from the electronic sales tracking system is subject to the same requirements as a retailer who has been granted an exemption under subsection (c) of this section.

(e) For the purposes of subsection (4) of this section and section 37-3303A, Idaho Code:

- (i) "Charge for accessing the system" means charges relating to:
1. Access to the web-based electronic sales tracking software;
 2. Training; and
 3. Technical support to integrate to point of sale vendors, if necessary.

- (ii) "Charge for accessing the system" does not include:
1. Charges relating to required internet access;
 2. Optional hardware that a pharmacy may choose to purchase for work flow purposes; or
 3. Other equipment.

SECTION 2. That Chapter 33, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-3303A, Idaho Code, and to read as follows:

37-3303A. ELECTRONIC TRACKING SYSTEM. (1) The board of pharmacy shall implement a real-time electronic sales tracking system to monitor the non-prescription sale of pseudoephedrine products in this state provided that such system is available to the state without charge for accessing the system to the state or retailers. If a real-time electronic sales tracking system is not available to the state without charge for accessing the system to the state or retailers, the board of pharmacy shall not be required to create such a system.

(2) The records submitted to the tracking system shall include the following:

- (a) The purchaser's name and address;
- (b) The purchaser's signature, either on a written form or stored electronically in the tracking system, attesting to the validity of all information provided;
- (c) The type of photographic identification presented pursuant to section 37-3303, Idaho Code;
- (d) The number and issuing government entity of the photographic identification presented;
- (e) The date and time of sale; and
- (f) The name and quantity of the product sold.

(3) The records submitted to the tracking system are for the confidential use of the retailer who submitted such records, except that:

- (a) The records must be produced in court when lawfully required;
- (b) The records must be open for inspection by the board of pharmacy; and
- (c) The records must be available to any general or limited authority Idaho peace officer to enforce the provisions of this chapter or to federal law enforcement officers.

(4) The electronic sales tracking system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits in section 37-3303, Idaho Code. The system shall contain an override function for use by a dispenser of pseudoephedrine products. Each instance in which the override function is utilized shall be logged by the system.

(5) The board of pharmacy shall have the authority to adopt rules necessary to implement and enforce the provisions of this section and section 37-3303, Idaho Code.

(6) A retailer participating in the electronic sales tracking system:

- (a) Is not liable for civil damages resulting from any act or omission in carrying out the requirements of this section or section 37-3303, Idaho Code, other than an act or omission constituting gross negligence or willful or wanton misconduct; and
- (b) Is not liable for civil damages resulting from a data breach that was proximately caused by a failure on the part of the electronic sales tracking system to take reasonable care through the use of industry standard levels of encryption to guard against unauthorized access to account information that is in the possession or control of the system.

CHAPTER 304
(S.B. No. 1313)

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING SECTION 39-4432, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISTRIBUTION OF CERTAIN REVENUES, TO ESTABLISH PROVISIONS RELATING TO REMITTANCE TO THE TREASURER OF A HIGHWAY DISTRICT, TO PROVIDE FOR USE OF MONEYS, TO ESTABLISH PROVISIONS RELATING TO REMITTANCE TO THE STATE HIGHWAY ACCOUNT AND TO PROVIDE FOR USE OF MONEYS.

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

SECTION 1. That Section 39-4432, Idaho Code, be, and the same is hereby amended to read as follows:

39-4432. DISTRIBUTION OF COMMERCIAL DISPOSAL FEE REVENUES. The revenues received from the commercial disposal fees imposed by this chapter and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the department to be distributed periodically but no less frequently than quarterly as follows:

(1) An amount equal to ninety-five percent (95%) shall be remitted to the general fund of the state, which percentage shall be reduced to ninety-three percent (93%) in fiscal year 2013, to ninety-one percent (91%) in fiscal year 2014, to eighty-five percent (85%) in fiscal year 2015, and shall remain at eighty-five percent (85%) for each fiscal year thereafter; and

(2) An amount equal to ~~the remaining~~ five percent (5%) shall be remitted to the county treasurer of the county ~~or counties~~ where the activity occurred which caused the fees to be assessed pursuant to this chapter. Moneys shall be apportioned to the counties in the same proportional manner in which they were collected. Moneys returned to counties the county shall be utilized by the county to respond to health and environmental problems which may be caused by hazardous waste emergencies or spills, or improperly handled or packaged hazardous waste; and

(3) An amount equal to one percent (1%) in fiscal year 2013, an amount equal to two percent (2%) in fiscal year 2014, and an amount equal to five percent (5%) in fiscal year 2015, and an amount equal to five percent (5%) for each fiscal year thereafter shall be remitted to the treasurer of a county highway district created pursuant to chapter 13, title 40, Idaho Code, to maintain a road under the jurisdiction of such district that connects a rail transfer facility to a commercial hazardous waste facility affiliated with such rail transfer facility. The use of the moneys provided for in this subsection shall be used only for the maintenance, construction and repair of the road described in this subsection; and

(4) An amount equal to one percent (1%) in fiscal year 2013, an amount equal to two percent (2%) in fiscal year 2014, and an amount equal to five percent (5%) in fiscal year 2015, and an amount equal to five percent (5%) for each fiscal year thereafter shall be remitted to the state highway account established in section 40-702, Idaho Code, such amount to be utilized by the Idaho transportation department to maintain a road or roads under the state board of transportation's jurisdiction that connects a rail transfer facility to a commercial hazardous waste facility affiliated with such rail transfer facility. The use of the moneys provided for in this subsection shall be used only for the maintenance, construction and repair of the road described in this subsection.

Approved April 5, 2012.

CHAPTER 305
(S.B. No. 1348, As Amended)

AN ACT

RELATING TO THE MEDICAL CONSENT AND NATURAL DEATH ACT; AMENDING SECTION 39-4509, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 39-4513, IDAHO CODE, TO REVISE PROVISIONS RELATING TO HEALTH CARE PROVIDERS UNWILLING TO CONFORM TO THE DESIRES OF PATIENTS AND THOSE AUTHORIZED TO CONSENT FOR THEM; AND AMENDING SECTION 39-4514, IDAHO CODE, TO PREVENT THE DISCRIMINATORY DENIAL OF CERTAIN HEALTH CARE INCLUDING ASSISTED FEEDING OR ARTIFICIAL NUTRITION AND HYDRATION UPON CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 39-4509, Idaho Code, be, and the same is hereby amended to read as follows:

39-4509. STATEMENT OF POLICY -- DEFINITION. For purposes of sections 39-4509 through 39-4515, Idaho Code:

(1) The legislature recognizes the established common law and the fundamental right of adult persons to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn. The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits. The legislature further finds that patients are sometimes unable to express their desire to withhold or withdraw such artificial life prolongation procedures which provide nothing medically necessary or beneficial to the patient because of the patient's inability to communicate with the physician.

(2) In recognition of the dignity and privacy which patients have a right to expect, the legislature hereby declares that the laws of this state shall recognize the right of a competent person to have his or her wishes for medical treatment and for the withdrawal of artificial life-sustaining procedures carried out even though that person is no longer able to communicate with the physician.

(3) It is the intent of the legislature to establish an effective means for such communication. It is not the intent of the legislature that the procedures described in sections 39-4509 through 39-4515, Idaho Code, are the only effective means of such communication, and nothing in sections 39-4509 through 39-4515, Idaho Code, shall impair or supersede any legal right or legal responsibility which a person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner, provided that this sentence shall not be construed to authorize any violation of section 39-4514(3), Idaho Code. Any authentic expression of a person's wishes with respect to health care should be honored.

(4) "Competent person" means any emancipated minor or person eighteen (18) or more years of age who is of sound mind.

SECTION 2. That Section 39-4513, Idaho Code, be, and the same is hereby amended to read as follows:

39-4513. IMMUNITY. (1) No emergency medical services personnel, health care provider, facility, or individual employed by, acting as the agent of, or under contract with any such health care provider or facility shall be civilly or criminally liable or subject to discipline for unprofessional conduct for acts or omissions carried out or performed in good faith pursuant to the directives in a facially valid POST form or living will or

by the holder of a facially valid durable power of attorney or directive for health care.

(2) Any physician or other health care provider who for ethical or professional reasons is incapable or unwilling to conform to the desires of the patient person who may give consent to care for the patient under section 39-4504, Idaho Code, as expressed by the procedures set forth in this chapter may, subject to the requirements of section 39-4514(3), Idaho Code, withdraw without incurring any civil or criminal liability provided the physician or other health care provider, before withdrawal of his or her participation, makes a good faith effort to assist the patient in obtaining the services of another physician or other health care provider who is willing to provide care for the patient in accordance with the patient's expressed or documented wishes.

(3) No person who exercises the responsibilities of a durable power of attorney for health care in good faith shall be subject to civil or criminal liability as a result.

(4) Neither the registration of a health care directive in the health care directive registry under section 39-4515, Idaho Code, nor the revocation of such a directive requires a health care provider to request information from that registry. The decision of a health care provider to request or not to request a health care directive document from the registry shall be immune from civil or criminal liability. A health care provider who in good faith acts in reliance on a facially valid health care directive received from the health care directive registry shall be immune from civil or criminal liability for those acts done in such reliance.

(5) Health care providers and emergency medical services personnel may disregard the POST form or a POST identification device:

- (a) If they believe in good faith that the order has been revoked; or
- (b) To avoid oral or physical confrontation; or
- (c) If ordered to do so by the attending physician.

SECTION 3. That Section 39-4514, Idaho Code, be, and the same is hereby amended to read as follows:

39-4514. GENERAL PROVISIONS. (1) Application. Except as specifically provided herein, tThis chapter shall have no effect or be in any manner construed to apply to persons not executing a living will and durable power of attorney for health care or POST form pursuant to this chapter nor shall it in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care, neither shall this chapter be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.

(2) Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or assisted suicide or permit an affirmative or deliberate act or omission to end life, other than to allow the natural process of dying.

(3) Withdrawal of care. Assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho Code. Health care other than assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogated decision maker in accordance with section 39-4504, Idaho Code, unless such care would be futile care as defined in subsection (6) of this section. Except as specifically provided in chapters 3 and 4, title 66, Idaho Code, health care, assisted feeding or artificial nutrition and hydra-

tion, the denial of which is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho Code, shall be withdrawn and denied in accordance with a valid directive. This subsection does not require provision of treatment to a patient if it would require denial of the same or similar treatment to another patient.

(34) Comfort care. Individuals caring for a patient for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.

(45) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:

(a) A completed living will for that person is in effect, pursuant to section 39-4510, Idaho Code, and the person is in a terminal condition or persistent vegetative state; or

(b) A completed durable power of attorney for health care for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her representative has determined that the person would not wish to receive cardiopulmonary resuscitation; or

(c) The patient has a completed physician orders for scope of treatment (POST) form indicating otherwise and/or proper POST identification pursuant to section 39-4502 (13), Idaho Code.

(56) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile; provided that this subsection does not authorize any violation of subsection (3) of this section. Futile care does not include comfort care. Futile care is a course of treatment:

(a) For a patient with a terminal condition, for whom, in reasonable medical judgment, death is imminent within hours or at most a few days whether or not the medical treatment is provided and that in reasonable medical judgment will not improve the patient's condition; or

(b) The denial of which in reasonable medical judgment will not result in or hasten the patient's death.

(67) Existing directives and directives from other states. A health care directive executed prior to July 1, 2007, but which was in the living will, durable power of attorney for health care, DNR, or POST form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. Health care directives or similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter.

(78) Insurance.

(a) The making of a living will and/or durable power of attorney for health care or physician orders for scope of treatment (POST) form pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured patient, notwithstanding any term of the policy to the contrary.

(b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope

of treatment (POST) form as a condition for being insured for, or receiving, health care services.

(89) Portability and copies.

(a) A completed physician orders for scope of treatment (POST) form signed by a physician shall be transferred with the patient to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511, Idaho Code, or new orders are issued by a physician.

(b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a patient.

(910) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

(101) Rulemaking authority.

(a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.

(b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification to be used statewide.

Approved April 5, 2012.

CHAPTER 306

(S.B. No. 1356, As Amended)

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CORPORATE POWERS OF HIGHWAY DISTRICTS.

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

SECTION 1. That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal or real property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. Personal or real property, no longer useful to the district, not exceeding five thousand dollars (\$5,000) in value may be sold by the highway commissioners at a private sale or at any regular board meeting without advertisement. Before disposing of all other personal or real property exceeding five thousand dollars (\$5,000) in value, the highway district commissioners shall first adopt a resolution finding that all other such personal or real property to be sold or exchanged is no longer useful to the district; that conduct a public hearing is to be held, of for which hearing notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that such personal or real property

is still useful to the district and that the sale or exchange should not be made. Following testimony by all interested persons at the public hearing, the highway district commissioners may adopt a resolution finding that such personal or real property is no longer useful to the district and finding that such personal or real property should be sold or exchanged and establishing procedures for the sale of such personal or real property including, but not limited to, the date and time of the sale and whether the sale will be by live public auction, by receipt of sealed bids or by some other reasonably commercial means. The hearing and sale or exchange shall not be conducted at the same regular meeting and, except as otherwise provided by law, the only notice required for such sale or exchange shall be as set forth in section 67-2343, Idaho Code. Provided however, that before the district disposes of surplus real property at public sale, the district shall first notify any person who owns real property that is contiguous with the surplus real property of the district that such person has first option to purchase the surplus real property for an amount not less than the current appraised value. If more than one (1) adjoining owner wants to purchase the surplus real property, a private auction shall be held for such parties. If no owner of adjoining property exercises his or her option to buy, the district may proceed to public sale. Highway district commissioners, highway directors, employees, and their families must be personally disinterested, directly or indirectly, in the purchase of property for the use of the highway district, or in the sale of any property belonging to the highway district, or in any contract made by the highway district or other person on behalf of the highway district unless otherwise authorized by law.

(3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

Approved April 5, 2012.

CHAPTER 307

(S.B. No. 1357, As Amended)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-1014, IDAHO CODE, TO PROVIDE A PROCEDURE RELATING TO THE SEGREGATION OF CERTAIN PERSONAL PROPERTY FOR PERSONS HOLDING PURCHASE MONEY SECURITY INTERESTS IN THE PROPERTY WHO DESIRE TO REPOSSESS AND SELL THE PROPERTY, TO PROVIDE PROCEDURES FOR COUNTY ASSESSORS AND TAX COLLECTORS, TO PROVIDE FOR THE PAYMENT OF PERSONAL PROPERTY TAXES OWED AND TO PROVIDE THAT SEGREGATION OF SPECIFIC PERSONAL PROPERTY SHALL NOT AFFECT THE PRIORITY OF THE TAX LIEN ON THE REMAINING PERSONAL PROPERTY ITEMS IN THE PARCEL.

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

SECTION 1. That Section 63-1014, Idaho Code, be, and the same is hereby amended to read as follows:

63-1014. REMOVAL OR SALE OR REPOSSESSION OF PERSONAL PROPERTY BEFORE PAYMENT OF PROPERTY TAXES ON PROPERTY ROLLS. (1) Whenever any person, firm or corporation owning any personal property shall desire to remove the personal property from the county or sell or repossess the property before all property taxes due and payable including the current year's taxes have been paid upon the personal property, the property taxes shall be paid to the tax collector upon demand and before the removal of the property from the county. It shall be the duty of the tax collector to collect the property taxes provided for in this section, and all the provisions of this chapter are hereby made available to the tax collector in the collection of such taxes.

(a) If a person holding a purchase money security interest desires to repossess and sell a specific piece of personal property and the market value of that personal property exceeds twenty thousand dollars (\$20,000), that person shall provide to the tax collector a request to segregate that specific piece of personal property from the personal property tax parcel. The person holding the purchase money security interest shall provide a copy of the purchase money security interest agreement with the request for segregation.

(b) The county assessor shall determine and provide to the tax collector the market value for assessment purposes of that segregated portion of personal property. The tax collector shall calculate property tax to be paid for any delinquencies, including late charges, accrued interest, costs incurred and the estimated taxes for the current year relating to that segregated portion of personal property.

(c) The person holding the purchase money security interest shall pay all personal property taxes owed, including late charges, accrued interest and costs incurred on the specific segregated personal property to the tax collector before taking possession of the personal property or selling the property.

(d) The segregation of specific personal property from the personal property tax parcel shall not affect the priority of the tax lien on the remaining personal property items in the parcel.

(2) It shall be a misdemeanor for any person, firm or corporation to move from the county or sell or repossess any personal property or manufactured home without the payment of the current year's property taxes or without paying property taxes due and owing, and upon conviction the person, firm or corporation shall, in addition to any penalty which the court may impose, pay to the tax collector a sum not in excess of double the amount of property tax which was collectible on the property removed or sold or repossessed, together with all costs and late charges provided for in this chapter. The excess sum shall be collected by the tax collector in the same manner as the original property tax.

Approved April 5, 2012.

CHAPTER 308
(S.B. No. 1363)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-524, IDAHO CODE, TO ALLOW FOR DONATION OF ANY PROPERTY, PROCEEDS, INTEREST AND OTHER SUMS PAYABLE UNDER THE UNCLAIMED PROPERTY ACT TO CERTAIN ACCOUNTS AND FUNDS.

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

SECTION 1. That Section 14-524, Idaho Code, be, and the same is hereby amended to read as follows:

14-524. FILING OF CLAIM WITH ADMINISTRATOR. (1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator, may file a claim on a form prescribed by the administrator and verified by the claimant.

(2) The administrator shall consider each claim within ninety (90) days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The ninety (90) day time period may be extended by the claimant and the administrator upon their written agreement. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is

stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(3) If a claim is allowed₇:

(a) Except upon election of donation as authorized in subsection (3) (c) of this section, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds, if it has been sold by the administrator, together with any additional amount required by section 14-521, Idaho Code.

(b) If the property claimed was interest-bearing to the owner on the date of surrender by the holder, the administrator also shall pay interest at a rate of five percent (5%) a year or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of ten (10) years after delivery or the date on which payment is made to the owner.

(c) As directed by the claimant, the administrator shall pay over or deliver any property, proceeds, interest and other sums payable pursuant to this chapter to one (1) or more of the following: the general fund of the state of Idaho defined in section 67-1205, Idaho Code; the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho; the veterans cemetery maintenance fund created pursuant to section 65-107, Idaho Code; or the park and recreation capital improvement account created pursuant to section 57-1801, Idaho Code.

(4) Any holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator, would be subject to the provisions of subsection (3) (b) of this section, shall add interest as provided in subsection (3) (b). The added interest must be repaid to the holder by the administrator in the same manner as the principal.

(5) A person claiming an abandoned utility deposit under section 14-508(1), Idaho Code, who is entitled thereto under this section, which was not deposited with the administrator under section 14-508(2), Idaho Code, may file a claim on a form prescribed by the administrator and verified by the claimant. The administrator will forward the claim to the utility company, who shall remit such payment to the claimant upon receipt of the claim.

Approved April 5, 2012.

CHAPTER 309
(S.B. No. 1365)

AN ACT

RELATING TO UNCLAIMED PROPERTY AND THE PUBLIC RECORDS ACT; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE THAT PERSONAL INFORMATION RELATED TO UNCLAIMED PROPERTY IS EXEMPT FROM DISCLOSURE; AND AMENDING SECTION 9-340F, IDAHO CODE, TO PROVIDE THAT THE AUDIT METHODOLOGY OF THE UNCLAIMED PROPERTY PROGRAM IS EXEMPT FROM DISCLOSURE.

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

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for people who are elderly, indigent or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3) (a), (3) (b) or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

(29) Documents and records related to continuing education and record-keeping violations that are maintained by the Idaho board of veterinary medicine under the provisions of section 54-2118(1) (b), Idaho Code, provided the requirements set forth therein are met.

(30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, Idaho Code, except under the following circumstances:

(a) If directed by a court order, to a person identified in the court order;

(b) If requested by a law enforcement agency, to the law enforcement agency;

(c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

(d) If the law enforcement officer provides written permission for disclosure of such information.

(31) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section 59-1101A, Idaho Code.

(32) Personal information including, but not limited to, property values, personal and business addresses, phone numbers, dates of birth, social security and driver's license numbers or any other identifying numbers or information maintained by the administrator of the unclaimed property law set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection shall prohibit the release of names, last known city of residence, property value ranges and general property information by the administrator for the purpose of reuniting unclaimed property with its owner.

SECTION 2. That Section 9-340F, Idaho Code, be, and the same is hereby amended to read as follows:

9-340F. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUPPORTING MATERIALS, TAX COMMISSION, UNCLAIMED PROPERTY, PETROLEUM CLEAN WATER TRUST FUND. The following records are exempt from disclosure:

(1) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(2) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the legislative services office or the director of legislative performance evaluations prior to release of the related final audit and all other records or materials in the possession of the legislative services office or the director of legislative performance evaluations that would otherwise be confidential or exempt from disclosure.

(3) Records consisting of draft congressional and legislative redistricting plans and documents specifically related to such draft redistricting plans or research requests submitted to the commission staff by a member of the commission for reapportionment for the purpose of placing such draft redistricting plan into form suitable for presentation to the full membership of the commission, unless the individual commission member having submitted or requested such plans or research agrees to waive the provisions of confidentiality provided by this subsection.

(4) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(5) Records that identify the method by which the administrator of the unclaimed property law set forth in chapter 5, title 14, Idaho Code, selects reports for audit review or conducts audit review of such reports and the identity of individuals or entities under audit.

(6) Underwriting and claims records of the Idaho petroleum clean water trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A, 41-4912 or 41-4912A, Idaho Code. Provided however, that this subsection shall not prevent the Idaho petroleum clean water trust fund's submittal to the Idaho department of environmental quality, or other regulatory agencies of infor-

mation necessary to satisfy an insured's corrective action requirement under applicable federal or state standards in the event of a release into the environment from a petroleum storage tank; and provided further that nothing in this subsection shall prevent the Idaho petroleum clean water trust fund from providing auditing, reporting, or actuarial information as otherwise required of it pursuant to section 41-4919, 41-4925A, 41-4928, 41-4930, 41-4932, 41-4937 or 41-4938, Idaho Code.

Approved April 5, 2012.

CHAPTER 310
(S.B. No. 1366)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5220, IDAHO CODE, TO PROVIDE STATUTORY PROCEDURES FOR NEGOTIATED RULEMAKING; AMENDING SECTION 67-5221, IDAHO CODE, TO REVISE NOTICE FOR NEGOTIATED RULEMAKING, TO PROVIDE FOR AN AGENCY TO POST NOTICE OF RULEMAKING ONTO ITS WEBSITE IF THE AGENCY HAS A WEBSITE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5220, Idaho Code, be, and the same is hereby amended to read as follows:

67-5220. NOTICE OF INTENT TO PROMULGATE RULES -- NEGOTIATED RULEMAKING. (1) Prior to the adoption, amendment or repeal of a rule, an agency may shall determine whether negotiated rulemaking is feasible. The agency's determination of whether negotiated rulemaking is feasible is not subject to judicial review. If the agency determines that negotiated rulemaking is feasible, it shall publish in the bulletin a notice of intent to promulgate a rule. The notice shall contain a brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking, and shall include the purpose of the rule, the statutory authority for the rulemaking, citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking, and the principal issues involved. The notice shall also state that interested persons have the opportunity to participate with the agency in negotiated rulemaking as provided in this section and shall identify an individual to whom comments on the proposal may be sent. If the agency determines that negotiated rulemaking is not feasible, it shall explain why negotiated rulemaking is not feasible in a notice of proposed rulemaking published pursuant to section 67-5221, Idaho Code, and shall proceed with rulemaking as provided pursuant to this chapter. Each agency that has a website shall cause the notice of intent to promulgate rules to be placed onto or accessible from the home page of the agency's website.

(2) The notice of intent to promulgate a rule is intended to facilitate negotiated rulemaking, a process in which all interested parties persons and the agency seek consensus on the content of a rule. Agencies are encouraged to shall proceed through such informal rulemaking whenever it is feasible to do so in order to improve the substance of proposed rules by drawing upon shared information, knowledge, expertise and technical abilities possessed by interested persons and to expedite formal rulemaking.

(3) To facilitate the achievement of the purposes of this section, agencies shall, at a minimum:

(a) Provide a reasonable period of time for interested persons to respond to the notice of intent to promulgate rules;

- (b) Provide notice of meetings to interested persons who responded to the notice of intent to promulgate rules;
- (c) Upon request, make available to persons attending the meetings all information that is considered by the agency in connection with the formulation of the proposed rule and that is not exempt from disclosure pursuant to chapter 3, title 9, Idaho Code;
- (d) Consider the recommendations of interested persons concerning the subject of the proposed rule;
- (e) Establish, maintain and timely update the negotiated rulemaking schedule and a list of written comments and other documents and information pertinent to the proposed rule and make that information available to persons attending the negotiated rulemaking meeting;
- (f) Prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.

SECTION 2. That Section 67-5221, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (a) The specific statutory authority for the rulemaking, including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking;
- (b) A statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;
- (c) A specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided, however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule;
- (d) The text of the proposed rule prepared in legislative format;
- (e) The location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- (f) The manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;
- (g) The manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code; and
- (h) The deadline for public comments on the proposed rule; and
- (i) If negotiated rulemaking was not conducted, an explanation of the agency's determination that negotiated rulemaking was not feasible.

(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The notice shall be in the form of an official legal notice, as provided for in section 60-105, Idaho Code, and subject to the rates set forth therein.

The notice shall include the agency name and address, rule number, rule subject matter as provided in paragraph subsection (1) (b) of this section, and the comment deadline. The notice shall also include a

brief statement that informs citizens where they can view the administrative bulletin in electronic form.

(b) The coordinator shall cause the notice required in paragraph subsection (2) (a) of this subsection to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published.

(3) Each agency that has a website shall cause the notice required by either subsection (1) or (2) of this section to be placed onto or be accessible from the home page of the agency's website so that interested persons can view it online.

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, 2012.

CHAPTER 311
(S.B. No. 1370)

AN ACT

RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-601, IDAHO CODE, TO REVISE THE ENUMERATED VENEREAL DISEASES; AND AMENDING SECTION 39-604, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXAMINATION OF CERTAIN CONFINED PERSONS FOR VENEREAL DISEASES, TO REMOVE THE REQUIREMENT THAT ALL PERSONS CHARGED WITH DRUG RELATED CHARGES SHALL BE TESTED FOR THE ENUMERATED VENEREAL DISEASES AND TO REVISE PROVISIONS THAT REQUIRE CERTAIN PERSONS TO BE TESTED FOR CERTAIN VENEREAL DISEASES.

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

SECTION 1. That Section 39-601, Idaho Code, be, and the same is hereby amended to read as follows:

39-601. VENEREAL DISEASES ENUMERATED. Syphilis, gonorrhea, acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), other manifestations of HIV (human immunodeficiency virus) infections (HIV), chancroid, chlamydia and hepatitis B virus (HBV) infections, hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable and dangerous to public health; and it shall be unlawful for anyone infected with these diseases or any of them to knowingly expose another person to the infection of such diseases.

SECTION 2. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons who shall be confined or imprisoned in any state prison facility in this

state shall be examined for on admission, and again before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

(2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities and or the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

(3) All persons who are charged with any sex offense in which body fluid, as defined in this chapter, has likely been transmitted to another shall be tested for the human immunodeficiency virus (HIV). At the request of the victim or parent, guardian or legal custodian of a minor victim, such test shall be administered not later than forty-eight (48) hours after the date on which the information or indictment is presented.

(4) All persons, including juveniles, who are charged with sex offenses, ~~drug related charges~~, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code, and for hepatitis C virus.

(5) All persons who are charged with any crime ~~in which body fluid as defined in this chapter has likely been transmitted to another~~ involving the use of injectable drugs shall be tested for the presence of HIV antibodies or antigens, for hepatitis C virus and for hepatitis B virus.

(6) If a person is tested as required in subsection (3), (4) or (5) of this section, the results of the test shall be revealed to the court. The court shall release the results of the test to the victim(s), or if the victim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, guardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.

(7) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of such examination and treatment, as follows:

(a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;

(b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;

(c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

Approved April 5, 2012.

CHAPTER 312
(S.B. No. 1373)

AN ACT

RELATING TO LABOR; AMENDING SECTION 44-2007, IDAHO CODE, TO PROVIDE AN EXCEPTION TO APPLICABILITY OF CERTAIN PENALTY PROVISIONS; AMENDING SECTION 44-2008, IDAHO CODE, TO PROVIDE AN EXCEPTION TO APPLICABILITY OF CERTAIN CIVIL REMEDIES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 28, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2809, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE FOR THE "OPEN ACCESS TO WORK ACT," TO DEFINE TERMS, TO PROVIDE THAT THE STATE AND POLITICAL SUBDIVISIONS THAT CONTRACT FOR CERTAIN PUBLIC WORKS SHALL NOT REQUIRE CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS AND CARRIERS ENGAGED IN SPECIFIED ACTIVITIES ASSOCIATED WITH PUBLIC WORKS TO PAY THEIR EMPLOYEES A PREDETERMINED AMOUNT OF WAGES OR WAGE RATE OR A TYPE, AMOUNT OR RATE OF EMPLOYEE BENEFITS, TO PROVIDE THAT SPECIFIED PROVISIONS SHALL NOT APPLY UNDER CERTAIN CIRCUMSTANCES, TO PROHIBIT CERTAIN PROVISIONS IN BID DOCUMENTS, SPECIFICATIONS, PROJECT AGREEMENTS AND OTHER CONTROLLING DOCUMENTS FOR PUBLIC WORKS CONSTRUCTION CONTRACTS AND TO PROHIBIT CERTAIN CONDUCT, TO PROVIDE THAT SPECIFIED PROVISIONS DO NOT PROHIBIT THE VOLUNTARY ENTRY INTO CERTAIN AGREEMENTS, TO PROVIDE FOR STANDING BY INTERESTED PARTIES, TO PROVIDE FOR THE AWARD OF ATTORNEY'S FEES AND COSTS, TO PROVIDE FOR APPLICABILITY OF SPECIFIED PROVISIONS, TO PROVIDE THAT SPECIFIED PROVISIONS DO NOT PROHIBIT OR INTERFERE WITH RIGHTS OF EMPLOYERS OR OTHER PARTIES TO ENTER INTO AGREEMENTS OR ENGAGE IN ACTIVITIES PROTECTED BY THE NATIONAL LABOR RELATIONS ACT AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Section 44-2007, Idaho Code, be, and the same is hereby amended to read as follows:

44-2007. PENALTIES. Any person who directly or indirectly violates any provision of this chapter, excluding the provisions of sections 44-2012 and 44-2013, Idaho Code, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a period of not more than ninety (90) days, or both such fine and imprisonment.

SECTION 2. That Section 44-2008, Idaho Code, be, and the same is hereby amended to read as follows:

44-2008. CIVIL REMEDIES. Any employee injured as a result of any violation or threatened violation of the provisions of this chapter, excluding the provisions of sections 44-2012 and 44-2013, Idaho Code, shall be entitled to injunctive relief against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney's fees, of any character resulting from such violation or threatened violation. Such remedies shall be inde-

pendent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.

SECTION 3. That Chapter 28, 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 67-2809, Idaho Code, and to read as follows:

67-2809. LEGISLATIVE INTENT -- PUBLIC WORKS -- AGREEMENTS -- SAVINGS -- SEVERABILITY. (1) It is the intent of the legislature to provide for the efficient and cost-effective procurement of goods and services by political subdivisions as market participants.

(2) Notwithstanding any other provision found in chapter 10, title 44, Idaho Code, chapter 28, title 67, Idaho Code, and chapter 57, title 67, Idaho Code, the following shall apply:

(a) This act shall be known as the "Open Access to Work Act."

(b) For purposes of this section, the following terms have the following meanings:

(i) "Political subdivision" means the state of Idaho, or any county, city, school district, sewer district, fire district or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof;

(ii) "Public works" shall have the same meaning as that provided for "public works construction" in section 54-1901, Idaho Code.

(c) (i) Except as provided in subsection (2) (c) (ii) of this section or as required by federal or state law, the state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works pay its employees:

1. A predetermined amount of wages or wage rate; or

2. A type, amount or rate of employee benefits.

(ii) Subsection (2) (c) (i) of this section shall not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(d) The state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works or obligates funds pursuant to such a contract shall ensure that neither the awarding governmental entity nor any construction manager acting on the governmental entity's behalf shall:

(i) In its bid documents, specifications, project agreements or other controlling documents for a public works construction contract, require or prohibit bidders, offerors, contractors, subcontractors or material suppliers to enter into or adhere to pre-hire agreements, project labor agreements, collective bargaining agreements or any other agreement with one (1) or more labor organizations on the same or other related construction projects; or

(ii) Discriminate against, or treat differently, bidders, offerors, contractors, subcontractors or material suppliers for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one (1) or more labor organizations on the same or other related construction projects.

Nothing in subsection (2) (d) of this section shall prohibit bidders, offerors, contractors, subcontractors or material suppliers from

voluntarily entering into agreements described in subparagraph (i) of this paragraph.

(e) Any interested party, which shall include a bidder, offeror, contractor, subcontractor or taxpayer, shall have standing to challenge any bid award, specification, project agreement, controlling document, grant or cooperative agreement that violates the provisions of this section, and such interested party shall be awarded costs and attorney's fees in the event that such challenge prevails.

(f) The provisions of this section apply to any contract executed after the effective date of this act.

(3) This act does not prohibit or interfere with the rights of employers or other parties to enter into agreements or engage in any other activity protected by the national labor relations act, 29 U.S.C. section 151, et seq.

(4) 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, 2012.

CHAPTER 313
(S.B. No. 1386)

AN ACT

RELATING TO THE MILITARY DIVISION AND THE IDAHO DIRECTORATE OF CIVIL AIR PATROL; AMENDING CHAPTER 71, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-7114A, IDAHO CODE, TO ESTABLISH THE IDAHO DIRECTORATE OF CIVIL AIR PATROL, TO PROVIDE FOR A MISSION OF THE DIRECTORATE AND TO PROVIDE FOR CERTAIN IN-KIND SERVICES.

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

SECTION 1. That Chapter 71, 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 39-7114A, Idaho Code, and to read as follows:

39-7114A. CIVIL AIR PATROL. (1) There is hereby established within the military division and the bureau of homeland security the Idaho directorate of civil air patrol. The mission of the directorate shall be to provide support for and facilitate the operation of the civil air patrol, Idaho wing, which shall be under the command and control of the duly appointed commanding officer of such wing.

(2) In consideration for services rendered to the state of Idaho by the directorate of civil air patrol, Idaho wing, the military division shall provide in-kind services to the directorate in the form of land use, hanger facilities, mess and billeting facilities, office space and other entities when deemed necessary and when such facilities are available.

Approved April 5, 2012.

CHAPTER 314
(S.B. No. 1390, As Amended)

AN ACT

RELATING TO CERTIFICATES OF INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1850, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT NO PERSON MAY PREPARE, ISSUE OR KNOWINGLY REQUEST THE ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE FORM HAS BEEN FILED WITH THE DIRECTOR, TO PROVIDE THAT NO PERSON MAY ALTER OR MODIFY A CERTIFICATE OF INSURANCE UNLESS THE ALTERATION OR MODIFICATION HAS BEEN FILED WITH THE DIRECTOR, TO ESTABLISH PROVISIONS RELATING TO THE DIRECTOR DISAPPROVING THE USE OF A FORM OR WITHDRAWING APPROVAL OF A FORM, TO PROVIDE THAT EACH CERTIFICATE OF INSURANCE MUST CONTAIN A STATEMENT, TO ESTABLISH THAT PROVISIONS RELATING TO CERTAIN FORMS PROMULGATED AND FILED WITH THE DIRECTOR ARE NOT REQUIRED TO BE REFILED BY INDIVIDUAL INSURERS, TO ESTABLISH PROVISIONS RELATING TO FALSE OR MISLEADING INFORMATION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN DOCUMENTS THAT PURPORT TO AFFIRMATIVELY OR NEGATIVELY ALTER, AMEND OR EXTEND CERTAIN COVERAGE, TO ESTABLISH PROVISIONS RELATING TO APPLICATION OF LAW, TO PROVIDE THAT A CERTIFICATE OF INSURANCE IS NOT A POLICY OF INSURANCE, TO PROVIDE THAT A CERTIFICATE OF INSURANCE SHALL NOT CONFER CERTAIN RIGHTS, TO PROVIDE THAT A CERTIFICATE OF INSURANCE SHALL NOT CONTAIN CERTAIN REFERENCES, TO PROVIDE FOR NOTICE, TO PROVIDE THAT ANY CERTIFICATE OF INSURANCE OR OTHER DOCUMENT PREPARED, ISSUED OR REQUESTED IN VIOLATION OF THIS SECTION SHALL BE NULL AND VOID AND OF NO FORCE AND EFFECT, TO PROVIDE FOR A PENALTY, TO PROVIDE THAT THE DIRECTOR SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE CERTAIN ACTIVITIES AND IMPOSE PENALTIES OR REMEDIES, TO PROVIDE FOR RULES AND TO PROVIDE THAT THIS SECTION SHALL NOT APPLY TO CERTAIN CERTIFICATES; AMENDING SECTION 41-1823, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BINDERS OR OTHER CONTRACTS FOR TEMPORARY INSURANCE AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1850, Idaho Code, and to read as follows:

41-1850. CERTIFICATES OF INSURANCE. (1) For purposes of this section, the following terms have the following meanings:

- (a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is prepared or issued as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, insurance binder, policy endorsement or automobile insurance identification card.
- (b) "Certificate holder" means any person, other than a policyholder, that requests, obtains or possesses a certificate of insurance.
- (c) "Insurance producer" has the same meaning as provided for in title 41, chapter 10, Idaho Code.
- (d) "Insurer" has the same definition as provided for in section 41-103, Idaho Code.
- (e) "Person" means any individual, partnership, corporation, association or other legal entity, including any government or governmental subdivision or agency.
- (f) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

(g) "Group master policy" means an insurance policy that provides coverage to eligible persons on a group basis through a group insurance program.

(2) No person, wherever located, may prepare, issue or knowingly request the issuance of a certificate of insurance unless the form has been filed with the director by or on behalf of an insurer. No person, wherever located, may alter or modify a certificate of insurance form unless the alteration or modification has been filed with the director.

(3) The director shall disapprove the use of any form filed under this section, or withdraw approval of a form, if the form:

- (a) Is unfair, misleading or deceptive, or violates public policy;
- (b) Fails to comply with the requirements of this section; or
- (c) Violates any provision of title 41, Idaho Code, including any rule promulgated by the director.

(4) Each certificate of insurance must contain the following or similar statement: "This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage, terms, exclusions and conditions afforded by the policies referenced herein."

(5) The current edition of standard certificate of insurance forms promulgated and filed with the director by the association for cooperative operations research and development (ACORD) or the insurance services office (ISO) are not required to be refiled by individual insurers.

(6) No person, wherever located, shall demand or request the issuance of a certificate of insurance or other document, record or correspondence that the person knows contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(7) No person, wherever located, may knowingly prepare or issue a certificate of insurance or other document, record or correspondence that contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(8) The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers and certificate of insurance forms issued as evidence of property or casualty insurance coverages on property, operations or risks located in this state, regardless of where the certificate holder, policyholder, insurer or insurance producer is located.

(9) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively alter, amend or extend the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance provides.

(10) No certificate of insurance shall contain references to contracts other than the underlying contracts of insurance, including construction or service contracts. Notwithstanding any requirement, term or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions and conditions of the policy itself.

(11) A person is entitled to receive notice of cancellation, nonrenewal or any material change or any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy or any endorsement to the policy. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

(12) Any certificate of insurance or any other document, record or correspondence prepared, issued or requested in violation of this section shall be null and void and of no force and effect.

(13) Any person who violates this section shall be subject to an administrative penalty imposed by the director in an amount as provided for in section 41-117, Idaho Code, per violation.

(14) The director shall have the power to examine and investigate the activities of any person that the director believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person who violates this section.

(15) The director may, in accordance with section 41-211, Idaho Code, adopt reasonable rules as are necessary or proper to carry out the provisions of this section.

(16) This section shall not apply to any certificate of insurance prepared and/or issued by an insurer pursuant to any federal law, rule or regulation, or any other law, rule or regulation of this state, in which the specific content and form of said certificate is enumerated therein, or a certificate issued to a person or entity that has purchased coverage under a group master policy.

SECTION 2. That Section 41-1823, Idaho Code, be, and the same is hereby amended to read as follows:

41-1823. BINDERS. (1) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such supplemental information and applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(2) No binder shall be valid beyond the issuance of the policy, or the endorsement, or the policy expiration, whichever is shortest, with respect to which it was given, ~~or beyond ninety (90) days from its effective date, whichever period is the shorter.~~

(3) ~~If the policy has not been issued a binder may be extended or renewed beyond such ninety (90) days with the written approval of the director, or in accordance with such rules and regulations relative thereto as the director may promulgate.~~

~~(4) This section shall not apply to life or disability insurances.~~

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 5, 2012.

CHAPTER 315
(S.B. No. 1393)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; PROVIDING FOR THE RECOVERY OF STATE CONTROLLER SERVICE COSTS TO THE GENERAL FUND; PROVIDING NON-GENERAL FUND REAPPROPRIATION; AND PROVIDING GENERAL FUND REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Controller, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General				
Fund	\$396,300	\$59,100		\$455,400
II. STATEWIDE ACCOUNTING:				
FROM:				
General				
Fund	\$1,560,100	\$1,558,500		\$3,118,600
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>		<u>20,000</u>
TOTAL	\$1,560,100	\$1,578,500		\$3,138,600
III. STATEWIDE PAYROLL:				
FROM:				
General				
Fund	\$1,302,200	\$1,360,600		\$2,662,800
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>		<u>20,000</u>
TOTAL	\$1,302,200	\$1,380,600		\$2,682,800
IV. COMPUTER CENTER:				
FROM:				
Data Processing Services				
Fund	\$4,268,300	\$2,848,400	\$13,700	\$7,130,400
GRAND TOTAL	\$7,526,900	\$5,866,600	\$13,700	\$13,407,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-six (96)

full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Controller services shall be placed in the Indirect Cost Recovery Fund. On June 30, 2013, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 5. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Controller any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 6. GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Controller, for the Statewide Payroll Division, the unexpended and unencumbered balance of General Fund moneys as appropriated for the 218 Referendum for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013. The reappropriation for the General Fund granted in this section shall be subject to the following provisions: (1) If the unexpended and unencumbered balance in the General Fund on June 30, 2012, is zero, the reappropriation for the General Fund in this section is hereby declared to be null and void; (2) If the unexpended and unencumbered balance in the General Fund on June 30, 2012, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in this section shall be in the proportion that the reappropriation of this agency bears to the total General Fund reappropriation authority granted to all state agencies.

CHAPTER 316
(S.B. No. 1401)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2013; EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO LIMIT THE FUNDS TRANSFER TO THE LEGISLATIVE FUND FOR FISCAL YEAR 2013; CREATING AND APPROPRIATING THE LEGISLATIVE CAPITOL FACILITIES FUND; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Legislative Council, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. LEGISLATIVE SERVICES OFFICE:				
FROM:				
General				
Fund	\$4,118,500	\$198,000		\$4,316,500
Miscellaneous Revenue				
Fund	118,900	64,000		182,900
Professional Services				
Fund	<u>1,171,100</u>	<u>89,800</u>		<u>1,260,900</u>
TOTAL	\$5,408,500	\$351,800		\$5,760,300
II. PERFORMANCE EVALUATIONS, OFFICE OF:				
FROM:				
General				
Fund	\$663,100	\$50,900	\$5,500	\$719,500
GRAND TOTAL	\$6,071,600	\$402,700	\$5,500	\$6,479,800

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Legislative Council is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Legislative Council any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated or reappropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 4. LEGISLATIVE TRANSFER FOR FISCAL YEAR 2013. On July 1, 2012, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to limit the amount transferred from the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, to \$5,846,000 for the period July 1, 2012, through June 30, 2013.

SECTION 5. LEGISLATIVE CAPITOL FACILITIES FUND. There is hereby created in the State Treasury the Legislative Capitol Facilities Fund which shall retain its own interest and shall be continuously appropriated to the legislative department. On June 30, 2012, the State Controller shall transfer any balance remaining in the Permanent Building Fund appropriated to the legislative department, into the Legislative Capitol Facilities Fund. On July 1, 2012, forty percent (40%) of the balance of the Legislative Capitol Facilities Fund shall be appropriated to the Senate, forty percent (40%) shall be appropriated to the House of Representatives, and twenty percent (20%) shall be appropriated to the Legislative Services Office.

SECTION 6. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 5, 2012.

CHAPTER 317
(S.B. No. 1408)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF IDAHO MILLENNIUM FUNDS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND FOR FISCAL YEAR 2012; APPROPRIATING AND TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM INCOME FUND FOR FISCAL YEAR 2012; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE SUPREME COURT FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING

MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE AMERICAN LUNG ASSOCIATION FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE WOMEN'S HEALTH CHECK PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE ALLUMBAUGH HOUSE FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE BOYS AND GIRLS CLUBS OF IDAHO FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO METH PROJECT FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO DRUG FREE YOUTH PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR THE PUBLIC HEALTH DISTRICT MILLENNIUM FUND CESSATION PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR TOBACCO PERMITTEE COMPLIANCE INSPECTIONS FOR FISCAL YEAR 2013; PROVIDING THAT CERTAIN UNEXPENDED AND UNENCUMBERED MONEYS SHALL REVERT TO THE IDAHO MILLENNIUM INCOME FUND AT THE END OF FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$161,000 from the Idaho Millennium Fund to the Idaho Millennium Permanent Endowment Fund for the period July 1, 2011, through June 30, 2012, for the purpose of repaying prior year investment management consulting fees that were paid in error from the Idaho Millennium Permanent Endowment Fund from fiscal year 2009 through fiscal year 2011.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$80,000 from the Idaho Millennium Fund to the Idaho Millennium Income Fund for the period July 1, 2011, through June 30, 2012.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 290, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$80,000 from the Idaho Millennium Income Fund to the State Treasurer, to be expended for operating expenditures, for the period July 1, 2011, through June 30, 2012.

SECTION 4. There is hereby appropriated, and at the request of the State Treasurer, the State Controller shall transfer \$1,859,200 from the Idaho Millennium Income Fund to the Department of Correction for the Community-Based Substance Abuse Treatment Services program, to be expended for trustee and benefit payments, for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to continue coordination, assessment and community-based substance abuse treatment and recovery support services for felony offenders, in lieu of incarceration in a state facility.

SECTION 5. There is hereby appropriated, and at the request of the State Treasurer, the State Controller shall transfer \$450,000 from the Idaho Millennium Income Fund to the Supreme Court for the Community-Based Substance Abuse Treatment Services program for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to support youth courts as a juvenile prevention and intervention program, programs for tobacco and substance abuse status offenders, and tobacco and alcohol diversion courts to handle underage misdemeanor tobacco and alcohol cases.

SECTION 6. There is hereby appropriated \$120,700 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the American Lung Association for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to help the American Lung Association deliver three

programs to address youth tobacco prevention, engagement and smoking cessation: Teens Against Tobacco Use (TATU), Support Teens Against Nicotine Dependency (STAND) and Not On Tobacco (N-O-T).

SECTION 7. On behalf of the American Cancer Society, Cancer Action Network, there is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$250,000 from the Idaho Millennium Income Fund to the Department of Health and Welfare for the Division of Public Health, Bureau of Clinical and Preventive Services, for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to support breast and cervical cancer early detection efforts of the Idaho Women's Health Check program for qualifying low-income, uninsured or underinsured women. It will also be used to assess tobacco use history of all enrolled clients, referring those who use tobacco to Idaho's QuitLine, QuitNet or other tobacco cessation resources.

SECTION 8. There is hereby appropriated \$113,000 from the Idaho Millennium Income Fund to the State Treasurer, for distribution to the Allumbaugh House partnership for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to sustain sobering, detoxification and crisis mental health services and financial commitments from state and local government and private partners for fiscal year 2013.

SECTION 9. There is hereby appropriated \$177,500 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Boys and Girls Clubs of Idaho for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to launch a statewide methamphetamine education and prevention program, known as MethSMART, and to expand the current SMARTMoves series to serve additional youth. The objective of these two programs is to prevent or delay the onset of meth, tobacco, alcohol, and other drug use and sexual involvement by young people.

SECTION 10. There is hereby appropriated \$100,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Meth Project for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to provide the resources necessary to leverage private sector funding and media match to support a statewide media campaign aimed at significantly reducing first-time meth use.

SECTION 11. There is hereby appropriated \$150,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Drug Free Youth program for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to implement a multifaceted parent and teen prevention education program called i2i to educate Idaho parents, together with their teens, about alcohol and other drugs and the damage that substances can do to the underdeveloped teen brain.

SECTION 12. There is hereby appropriated, and at the request of the State Treasurer, the State Controller shall transfer \$400,000 from the Idaho Millennium Income Fund to the Public Health Districts for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to continue the Public Health District Millennium Fund cessation program. Through this program, high-quality, best practice tobacco cessation programs are provided statewide at no cost to Idahoans who want to quit smoking, with a primary emphasis on youth and pregnant women.

SECTION 13. There is hereby appropriated, and at the request of the State Treasurer, the State Controller shall transfer \$2,000,000 from the Idaho Millennium Income Fund to the Department of Health and Welfare for the Physical Health Services program for the period July 1, 2012, through June

30, 2013. The purpose of this grant is to support Project Filter tobacco prevention and control programs, counter-marketing, QuitNet and QuitLine tobacco cessation programs, and nicotine replacement therapy. These funds shall not be used for local programs identified in the department's application proposal, since they may duplicate other programs funded from the Idaho Millennium Income Fund.

SECTION 14. There is hereby appropriated, and at the request of the State Treasurer, the State Controller shall transfer \$94,000 from the Idaho Millennium Income Fund to the Idaho State Police for Law Enforcement programs to be expended for the period July 1, 2012, through June 30, 2013. The purpose of this grant is to assist the Idaho State Police and the Department of Health and Welfare with the cost of tobacco permittee compliance inspections as required by law.

SECTION 15. Notwithstanding any other provision of law to the contrary, on June 30, 2013, or as soon thereafter as is practicable, any remaining unexpended and unencumbered balance of moneys appropriated in Sections 4, 5, 7, 12, 13 and 14 of this act, shall be reverted to the Idaho Millennium Income Fund.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after passage and approval.

Approved April 5, 2012.

CHAPTER 318
(H.B. No. 414)

AN ACT

RELATING TO THE STATE RAIL AND INTERMODAL FACILITY SYSTEM PLAN; AMENDING SECTION 49-2905, IDAHO CODE, TO REVISE DUTIES OF THE TRANSPORTATION DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE REGARDING THE STATE RAIL AND INTERMODAL FACILITY SYSTEM PLAN.

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

SECTION 1. That Section 49-2905, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (a) Identify and describe the state's rail system;
- (b) Prepare state rail system maps;
- (c) Identify and evaluate mainline capacity issues in cooperation with the railroads;
- (d) Identify and evaluate rail access and congestion issues;
- (e) Identify and evaluate rail commodity flows and traffic types;
- (f) Identify lines and corridors that have been rail banked or preserved;
- (g) Identify and evaluate other rail and intermodal issues affecting the state's freight transportation system and regional and local economies;

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

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

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

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

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

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

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

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

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

(ii) Identifying and evaluating intermodal and truck and rail freight transfer capacity and coordination issues in cooperation with local government and the railroad and truck interests;

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

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

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

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

(4) The Idaho transportation department shall determine the amount of moneys necessary to prepare and periodically update the state rail plan required by subsection (1) of this section, and communicate that amount to the department of agriculture who shall annually provide to the transportation department moneys in an amount not to exceed one percent (1%) of the total assets in the fund established by section 49-2904, Idaho Code, to prepare and periodically update the state rail plan. The Idaho transportation department is hereby authorized to accumulate these funds not to exceed an aggregate amount of seventy-five thousand dollars (\$75,000) for preparing and periodically updating the state rail plan.

CHAPTER 319
(H.B. No. 479, As Amended)

AN ACT

RELATING TO VETERANS; AMENDING CHAPTER 9, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-908, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES OR HIS DESIGNEE AS PAYEE, FIDUCIARY OR OTHER AGENT FOR THE PURPOSES OF RECEIVING FUNDS PAYABLE TO A RESIDENT OF A VETERANS HOME, TO PROVIDE FOR NOTICE, TO PROVIDE FOR APPEAL, TO AUTHORIZE RULEMAKING, TO PROVIDE THAT MONEYS SHALL BE KEPT IN TRUST, TO PROVIDE FOR APPLICATION OF FUNDS TO CERTAIN EXPENSES, TO PROVIDE FOR USE OF FUNDS FOR OTHER REASONABLE EXPENSES, TO PROVIDE FOR AN ACCOUNTING OF FUNDS AND TO PROVIDE FOR DISTRIBUTION OF FUNDS UPON DISCHARGE OF A RESIDENT AND PAYMENT OF ALL OUTSTANDING EXPENSES OF THE RESIDENT KNOWN TO THE ADMINISTRATOR.

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

SECTION 1. That Chapter 9, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-908, Idaho Code, and to read as follows:

66-908. RECEIPT OF RESIDENT FUNDS. (1) Notwithstanding any other provision of law, the administrator of the division of veterans services or his designee may be appointed by the paying entity as a payee, fiduciary or other agent for the purposes of receiving funds payable to a resident of a veterans home of this state. Prior to appointing the administrator as a recipient of resident funds, the paying entity shall conduct its customary process for determining the need for the appointment and conclude that the appointment of the administrator complies with the laws, policies and procedures applicable to the paying entity. The administrator shall provide the resident with notice and an opportunity to appeal the appointment before accepting appointment as a recipient of the resident's funds. The process for appeal of the appointment shall be set forth in rules promulgated by the administrator.

(2) All moneys received pursuant to this section shall be kept by the administrator in trust for the benefit of the resident. The administrator may apply any portion of the funds held in trust to the expenses of the resident arising from residence at a veterans home. The administrator may apply funds not required for the expenses arising from residence at a veterans home to payment for other reasonable expenses of the resident.

(3) The administrator shall maintain an accounting of the funds received and distributed under this section. A copy of the accounting shall be available to the resident and to other parties designated by the resident.

(4) Upon a resident's discharge from a veterans home and the payment of all outstanding expenses of the resident known to the administrator, the administrator shall distribute funds held on behalf of the resident under this section to the resident or to his designee.

Approved April 5, 2012.

CHAPTER 320
(H.B. No. 536)

AN ACT

RELATING TO PARI-MUTUEL BETTING; AMENDING SECTION 54-2512, IDAHO CODE, TO REVISE PENALTIES FOR CERTAIN ACTS, TO PROVIDE REQUIREMENTS TO RECEIVE AN ADVANCE DEPOSIT WAGERING LICENSE, TO PROVIDE REQUIREMENTS OF LICENSEES REGARDING INTERSTATE SIMULCAST SIGNALS, TO PROVIDE AUTHORITY TO THE COMMISSION TO SUSPEND OR REVOKE LICENSES FOR CERTAIN CONDUCT AND TO ALLOW FOR CIVIL PENALTIES.

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

SECTION 1. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this chapter may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have an agreement reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code. The agreement shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all simulcast purse moneys that are accrued as required by the horsemen's agreement be held in the simulcast purse moneys fund created pursuant to the provisions of section 54-2508, Idaho Code. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

(3) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility not located on the grounds of a live horse race meet facility, but within the county that the live horse race facility is located, subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be

made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the number of days run by each of the respective live horse racetracks individually; and

(b) Additionally, the licensee shall pay to the Idaho state racing commission a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races conducted pursuant to the race purse distribution fund to the licensee whose license is being utilized to conduct simulcast and/or televised races pursuant to this section. These moneys shall be used by the licensee solely for live horse race meet purses; and

(c) Approval must be obtained from the board of county commissioners; and

(d) A license to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races issued pursuant to this section may be leased to another person or entity but only with the approval of the Idaho state racing commission. A lessee of such a license shall be held by the Idaho state racing commission to the same standards as the original licensee.

(4) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility located in another county within the state other than the county where the licensee's live racetrack facility is located subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the number of days run by each of the respective live horse racetracks individually; and

(b) Additionally, the licensee shall pay to the Idaho state racing commission a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races conducted pursuant to the live horse race purse distribution fund to the licensee whose license is being utilized to conduct simulcast and/or televised races pursuant to this section. These moneys shall be used by the licensee solely for live horse race meet purses; and

(c) Approval must be obtained from the board of county commissioners of the county in which the simulcast and/or televised race facility is to be located; and

(d) A license to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races issued under this section may be leased to another person or entity, but only with the approval of the Idaho state racing commission. A lessee of such a license shall be held by the Idaho state racing commission to the same standards as the original licensee.

(e) No simulcast and/or televised race license transferred from one (1) county to another shall be located in a facility within thirty (30)

miles of a live horse racetrack without the approval of that live horse racetrack facility.

(f) No simulcast and/or televised race license can be transferred into a county that has had a live race license within the prior five (5) years.

(5) No more than one (1) simulcast and/or televised race facility per county shall be allowed. This includes the one (1) simulcast license authorized in section 54-2514A, Idaho Code.

(6) There is hereby created in the state treasury the live horse race purse distribution fund, to which shall be deposited moneys received by the Idaho state racing commission for the purposes described in this section. All moneys in the live horse race purse distribution fund are hereby perpetually appropriated to the Idaho state racing commission for payment as required in this section. Payments by the Idaho state racing commission from the live horse race purse distribution fund to the recipient live horse race tracks shall be made no later than thirty (30) days after Idaho state racing commission approval of a live race meet license application for the forthcoming calendar year.

(7) Once a total handle exceeding fourteen million dollars (\$14,000,000) is realized from simulcasting and/or televised races conducted pursuant to this section in any one (1) calendar year, the Idaho state racing commission shall submit to the Idaho horse board a sum of five percent (5%) of the balance over fourteen million dollars (\$14,000,000), but not to exceed twelve thousand five hundred dollars (\$12,500) to be used by the Idaho horse board for youth programs and to the "Idaho Robert R. Lee Promise Scholarship Program" as detailed in chapter 43, title 33, Idaho Code, a sum of five percent (5%) of the balance over fourteen million dollars (\$14,000,000), but not to exceed twelve thousand five hundred dollars (\$12,500).

(8) Such pari-mutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this chapter and in conformity thereto and to the rules of the commission, be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

(9) The participation by a licensee in an interstate combined wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(10) Advance deposit wagering on live and/or simulcast horse racing conducted by licensees is hereby declared to be lawful and within the scope of the licensee's license. As used in this section, "advance deposit wagering" means a form of wagering in which an account holder may deposit money with a licensee and then use the balance to fund wagers. The bettor can then contact the licensee from a location without actually being physically present at the licensee's premises in order to communicate the desired use of those funds for wagering purposes. However, no wager can be accepted by the licensee that exceeds the amount in the account held by the licensee for the person placing the wager. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be ~~illegal~~ a felony unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission. In order to receive an advance deposit wagering license, the applicant must comply with the provisions of subsection (12) of this section and must also reach a nondiscriminatory agreement regarding signal costs with any licensed facility in Idaho if such provider or affiliate is sending interstate simulcast signals to such licensed facility in Idaho. All moneys in the advance deposit wagering accounts held by the commission are hereby continuously appropriated to the commission for payment as required by this section.

Payments to recipients shall be made annually. Distribution of the source market fee shall be forty percent (40%) to purses to be deposited directly into the horsemen's purse account at all tracks weighted by number of races ran through the year of distribution, thirty percent (30%) to the simulcast sites in the state weighted by the annual simulcast handle, five percent (5%) to the track distribution fund, five percent (5%) to the breed distribution fund, five percent (5%) to the Idaho state racing commission, five percent (5%) to the public school income fund, and ten percent (10%) for track operating expenses at the live tracks with distribution weighted on the number of race days. All moneys in the track operating accounts are hereby continuously appropriated to the commission for payment as required by this section. For purposes of this section, wagering instructions concerning funds held in an advance deposit account shall be deemed to be issued within the licensee's enclosure. As used in this section, "source market fee" means that part of a wager, made outside of the state by an Idaho resident, that is returned to the state of Idaho. The commission may promulgate rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this subsection.

(11) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(12) No licensee shall engage in any anticompetitive or deceptive practices in the process of contracting for the right to send any interstate simulcast signal to a licensed facility in Idaho. For purposes of this subsection, anticompetitive or deceptive practices shall include, but not be limited to:

(a) Any agreement to charge excessive or unreasonable fees for the right to receive an interstate signal. In determining whether a fee is excessive or unreasonable, the commission shall consider prevailing rates paid for comparable signals in the past, prevailing rates paid outside Idaho and whether any commonality of ownership or revenue sharing exists, partially or wholly, between the Idaho licensee and the entity receiving the simulcast fees; or

(b) Any agreement, combination, trust or joint enterprise with any other track or entity in which multiple interstate signals are bundled together for the purpose of securing an excessive or unreasonable fee for one (1) or more signals in the group in exchange for the right to receive any of the signals in the group; or

(c) Any other activity with the purpose or effect of artificially inflating prices beyond reasonable market rates or passing on or attempting to pass on any portion of the ten percent (10%) advance deposit wagering fee to licensed facilities in Idaho.

The commission may suspend or revoke licenses and may impose civil penalties of up to ten thousand dollars (\$10,000) per occurrence for violation of this subsection.

(13) It shall be unlawful to conduct pool selling, bookmaking, or to circulate handbooks, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel system.

Approved April 5, 2012.

CHAPTER 321
(H.B. No. 563)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3024, IDAHO CODE, TO REDUCE THE INCOME TAX RATE ON A CERTAIN AMOUNT OF IDAHO TAXABLE INCOME; AMENDING SECTION 63-3025, IDAHO CODE, TO REDUCE THE CORPORATE INCOME TAX RATE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For taxable year 2001, and each taxable year thereafter, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When Idaho taxable income is:	The rate is:
Less than \$1,000	One and six-tenths percent (1.6%)
\$1,000 but less than \$2,000	\$16, plus three and six-tenths percent (3.6%) of the amount over \$1,000
\$2,000 but less than \$3,000	\$52, plus four and one-tenth percent (4.1%) of the amount over \$2,000
\$3,000 but less than \$4,000	\$93, plus five and one-tenth percent (5.1%) of the amount over \$3,000
\$4,000 but less than \$5,000	\$144, plus six and one-tenth percent (6.1%) of the amount over \$4,000
\$5,000 but less than \$7,500	\$205, plus seven and one-tenth percent (7.1%) of the amount over \$5,000
\$7,500 but less than \$20,000 <u>and over</u>	\$383, plus seven and four-tenths percent (7.4%) of the amount over \$7,500
Over \$20,000	\$1,308, plus seven and eight-tenths percent (7.8%) of the amount over \$20,000

For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor which shall be used to compute the Idaho income tax brackets provided in subsection (a) of this section. The factor shall provide an adjustment to the Idaho tax brackets so that inflation will not result in a tax increase. The Idaho tax brackets shall be adjusted as follows: multiply the bracket amounts by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted brackets will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year, without regard to any subsequent adjustments, as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States de-

partment of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income in the brackets above to arrive at that year's Idaho taxable income for tax bracket purposes.

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) In the case of a trust that is an electing small business trust as defined in section 1361 of the Internal Revenue Code, the special rules for taxation of such trusts contained in section 641 of the Internal Revenue Code shall apply except that the maximum individual rate provided in this section shall apply in computing tax due under this chapter.

(d) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of Idaho taxable income in fifty dollar (\$50.00) steps to fifty thousand dollars (\$50,000), rounding such calculations to the nearest dollar. Taxpayers having income within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall promulgate rules defining the conditions upon which such returns shall be filed.

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

63-3025. TAX ON CORPORATE INCOME. (1) For taxable years commencing on and after January 1, 2001, a tax is hereby imposed on the Idaho taxable income of a corporation, other than an S corporation, which transacts or is authorized to transact business in this state or which has income attributable to this state. The tax shall be equal to seven and ~~six~~ four-tenths percent (7.64%) of Idaho taxable income.

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

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

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

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

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

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2012.

Approved April 5, 2012.

CHAPTER 322
(H.B. No. 575)

AN ACT

RELATING TO TRADEMARKS; AMENDING SECTION 48-504, IDAHO CODE, TO REVISE THE PROVISIONS FOR FILING OF APPLICATIONS FOR TRADEMARKS; AND AMENDING SECTION 48-510, IDAHO CODE, TO REQUIRE TRADEMARK RENEWAL APPLICATIONS TO USE THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 48-504, Idaho Code, be, and the same is hereby amended to read as follows:

48-504. FILING OF APPLICATIONS. (1) Upon the filing receipt of an application for registration and payment of the application fee, the secretary of state may shall cause the application to be examined for conformity with this aet chapter.

(2) The applicant shall provide any additional pertinent information requested by the secretary of state including a description of a design mark and may make, or authorize the secretary of state to make, such amendments to the application as may be reasonably requested by the secretary of state or deemed by the applicant to be advisable to respond to any rejection or objection.

(3) The secretary of state may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter is distinctive of the applicant's or registrant's goods or services.

(4) Amendments may be made by the secretary of state upon the application submitted by the applicant upon the applicant's agreement, or the secretary of state may require a fresh application.

(5) If the applicant is found not to be entitled to registration, the secretary of state shall advise the applicant thereof and of the reasons therefor. The applicant shall have a reasonable period of time specified by the secretary of state in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until: (a) the secretary of state finally refuses registration of the mark; or (b) the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

(6) If the secretary of state finally refuses registration of the mark, the applicant may appeal the denial of such registration to the district court in and for Ada county. The court may compel registration of the mark, but without cost to the secretary of state, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.

(7) In the instance of applications concurrently being processed by the secretary of state which seek registration of the same or confusingly similar marks for the same or related goods or services, the secretary of state shall grant priority to the applications in order of filing. If a prior-filed application is granted a registration, the other application or applications shall then be rejected. Any rejected applicant may bring an action for cancellation of the registration upon grounds of prior or

superior rights to the mark, in accordance with the provisions of section 48-509, Idaho Code.

SECTION 2. That Section 48-510, Idaho Code, be, and the same is hereby amended to read as follows:

48-510. CLASSIFICATION. The secretary of state shall use the international classification of goods and services for convenience of administration of this act, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the secretary of state may require payment of a fee for each class. To the extent practicable, the classification of goods and services ~~should~~ shall conform to the classification adopted by the United States patent and trademark office. Applications for renewal shall be filed using the international classification of goods and services. ~~in effect when the trademark was approved by the secretary of state; provided that a registrant may request a A renewed registration to~~ shall be issued by the secretary of state, under the international classification of goods and services. ~~When such a request is made, the secretary of state shall issue the renewed certificate as requested by the registrant if such renewal would not extend~~ expand the registrant's rights.

Approved April 5, 2012.

CHAPTER 323
(H.B. No. 583)

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING SECTION 40-102, IDAHO CODE, TO PROVIDE FOR A DEFINITION OF "ACCESS EASEMENT"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-102, Idaho Code, be, and the same is hereby amended to read as follows:

40-102. DEFINITIONS -- A.

(1) (a) "Access easement" also commonly and sometimes legally referred to as a "deeded access" means a property right running with the land and appurtenant thereto for purposes of vehicular ingress and egress at a designated location from private property to the public highway or public right-of-way created by a written document, contract or deed by exception between the state or any political subdivision of the state of Idaho and the landowner. If the easement does not specify the type of use which may be made of the easement, for example, farm access, heavy industrial, etc., the easement is not limited to any type(s) of access.

(b) If the governmental entity with jurisdiction over the road that the property has a "deeded access" to denies the property owner the right to use the easement, the denial shall constitute a taking of the access right for which just compensation shall be owed.

(2) "Activities, commercial or industrial." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(23) "Advertising business, outdoor." (See "Outdoor advertising business," section 40-116, Idaho Code)

(34) "Advertising display" means advertising structures and signs.

(45) "Advertising structure(s)" or "structure(s)" or "sign(s)" means any thing designed, intended or used to advertise or inform. "Advertising structure" or "sign" does not include:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice.

(c) Directional, warning or information structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures.

(d) An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of the city or county, provided the same is maintained wholly at public expense. Where a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway, the Idaho transportation board, in its discretion, may grant the city the right to erect and maintain a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. Billboards erected must be at locations consistent with department regulations and safety standards.

(56) "Agency," as applied to highway relocation assistance as provided by chapter 20, title 40, Idaho Code, means any subdivision or entity of state or local government in the state of Idaho authorized by law to engage in any highway program or perform any highway project in which the acquisition of real property may result in the displacement of any person.

(67) "Alternate technical concept (ATC)" means an alternative to the base technical concept that promotes innovation and is equal or better in quality or effect, as determined by the department in its sole discretion.

(78) "Areas, commercial or industrial, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(89) "Areas, urban." (See "Urban areas," section 40-122, Idaho Code)

(910) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(101) "Average annual net earnings," for the purposes of section 40-2004, Idaho Code, means one-half (1/2) of any net earnings of the business or farm operations, before federal, state and local income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period as the agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during the two (2) year period, or any other period as determined by the agency.

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

Approved April 5, 2012.

CHAPTER 324
(H.B. No. 593)

AN ACT

RELATING TO COMMUNITY INFRASTRUCTURE DISTRICTS; AMENDING SECTION 50-3102, IDAHO CODE, TO REVISE CERTAIN DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-3103, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 50-3104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MANAGER, TREASURER AND CLERK OF A DISTRICT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-3108, IDAHO CODE, TO PROVIDE THAT IN NO EVENT SHALL THE AGGREGATE OUTSTANDING PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS AND ANY OTHER INDEBTEDNESS FOR WHICH THE FULL FAITH AND CREDIT OF THE DISTRICT ARE PLEDGED EXCEED NINE PERCENT OF THE ACTUAL OR ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES ON CERTAIN PROPERTY AS SUCH VALUATION EXISTED ON A CERTAIN DATE; AMENDING SECTION 50-3109, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION AND TO REVISE PROVISIONS RELATING TO THE ADOPTION OF A CERTAIN RESOLUTION; AND AMENDING SECTION 50-3119, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN APPEALS.

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

SECTION 1. That Section 50-3102, Idaho Code, be, and the same is hereby amended to read as follows:

50-3102. DEFINITIONS. As used in this chapter, the following terms shall have the meanings as stated:

(1) "Assessment area" means real property within the boundaries of a community infrastructure district that is the subject of a specific special assessment as set forth in this chapter.

(2) "Community infrastructure" means improvements that have a substantial nexus to the district and directly or indirectly benefit the district. Community infrastructure excludes public improvements fronting individual single family residential lots. Community infrastructure includes planning, design, engineering, construction, acquisition or installation of such infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure, and incurring expenses incident to and reasonably necessary to carry out the purposes of this chapter. Community infrastructure includes all public facilities as defined in section 67-8203(24), Idaho Code, and, to the extent not already included within the definition in section 67-8203(24), Idaho Code, the following:

- (a) Highways, parkways, expressways, interstates, or other such designation, interchanges, bridges, crossing structures, and related appurtenances;
- (b) Public parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;
- (c) Trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;
- (d) Public safety facilities;
- (e) Acquiring interests in real property for community infrastructure;
- (f) Financing costs related to the construction of items listed in this subsection; and
- (g) Impact fees.

(3) "Community infrastructure segment" means a separate or a discernible portion of a construction contract attributable to community infrastructure.

(4) "Debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at maturity or prior redemption and fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds and the costs of credit enhancement or liquidity support.

(5) "District" means a community infrastructure district formed pursuant to this chapter. A district shall only include contiguous property at the time of formation. Land that is connected by only a shoestring or strip of land which comprises a railroad or highway right-of-way shall not be considered contiguous for the purposes of this chapter. Subsequent to a district's formation, a district may include noncontiguous property but only ~~as the same shall be~~ if specifically determined and by the district board to have a substantial nexus to the initial district or to the community infrastructure contemplated by the initial district, and then authorized by the district board in its discretion and pursuant to section 50-3106, Idaho Code.

(6) "District board" means the board of directors of the district.

(7) "District development agreement" means an agreement between a property owner or developer, the county or city, any other political subdivision of the state, and/or the district. A district development agreement shall be used to establish obligations of the parties to the agreement relating to district financing and development, including: intergovernmental agreements; the ultimate public ownership of the community infrastructure financed by the district; the understanding of the parties with regard to future annexations of property into the district; the total amount of bonds to be issued by the district and the property taxes and special assessments to be levied and imposed to repay the bonds and the provisions regarding the disbursement of bond proceeds; the financial assurances, if any, to be provided with respect to the bonds; impact and other fees imposed by governmental authorities, including credit, prepayment and/or reimbursement with respect thereto; and other matters relating to the community infrastructure, such as construction, acquisition, planning, design, inspection, ownership and control. A district development agreement shall be in addition to and shall not supplant any development agreement entered into pursuant to section 67-6511A, Idaho Code, pursuant to which a governing body may require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel.

(8) "General plan" means the general plan described in section 50-3103(1), Idaho Code, as the plan may be amended from time to time.

(9) "Governing body" means the county commissioners or city council that by law is constituted as the governing body of the county or city in which the district is located. Reference in this chapter to "governing body or bodies" shall mean the governing body or bodies of each county and city in which the district is located.

(10) "Owner" means the person listed as the owner of real property within the district or a proposed district on the current property rolls in effect at the time that the action, proceeding, hearing or election has begun; provided however, that if a person listed on the property rolls is no longer the owner of real property within the district or a proposed district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner shall be deemed to be the owner for the purposes of this chapter.

(11) "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property and excludes all property exempt from taxation pursuant to section 63-602G, Idaho Code, within the community infrastructure district on the tax rolls completed and available as of the date of approval in the district bond issuance.

(12) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partner-

ship, trust or other such entities as recognized by the state of Idaho. A "person in interest" is any person who is a qualified elector in the district, who is an owner of real property in the district or who is a real property taxpayer in the district.

(13) "Qualified elector" means a person who possesses all of the qualifications required of electors under the general laws of the state of Idaho and:

(a) Resides within the boundaries of a district or a proposed district and who is a qualified elector. For purposes of this chapter, such elector shall also be known as a "resident qualified elector"; or

(b) Is an owner of real property that is located within the district or a proposed district, who is not a resident qualified elector as set forth above. For purposes of this chapter, such elector shall also be known as an "owner qualified elector."

(14) "Special assessment" means an assessment imposed upon real property located within an assessment area for a specific purpose and of a special benefit to the affected property, collected and enforced in the same manner as property taxes, that may be apportioned according to the direct or indirect special benefits conferred upon the affected property, as well as any or any combination of the following: acreage, square footage, front footage, the cost of providing community infrastructure for the affected property, or any other reasonable method as determined by the district board.

SECTION 2. That Section 50-3103, Idaho Code, be, and the same is hereby amended to read as follows:

50-3103. CREATION OF DISTRICT. (1) The process for the creation and organization of a community infrastructure district shall be initiated by a petition signed by not less than two-thirds (2/3) of the district residents or by all of the owners of all the lands located in the proposed district. The petition shall be filed with the clerk of the governing body in which the proposed district will be located. If the proposed district will be located within two (2) or more counties and/or cities, a petition conforming to the requirements of this section shall be filed with the clerk of each jurisdiction's governing body. The petition shall state the name of the proposed district and the purpose for which it is formed, state that the formation of the district shall entitle the district to impose special assessments, levy property taxes and impose fees or charges to pay the cost of providing services, and shall be accompanied by a map depicting the boundaries of the proposed district, a legal description of the proposed district and a copy of the proposed general plan. The general plan shall describe or identify the community infrastructure to be financed by the district, the locations of the infrastructure and the estimated cost thereof, the proposed financing methods and the anticipated special assessments, tax levies or other charges, the approvals obtained pursuant to section 50-3101(34), Idaho Code, and may include possible alternatives, modifications or substitutions concerning locations, improvements, financing methods and other information provided in the general plan. The petition shall also include copies of any proposed district development agreement. The petition, together with all maps and other papers filed therewith, shall be open to public inspection in the office of the clerk in each county or city in which the petition is filed, during such business hours as the clerk may direct.

(2) Upon the filing of a petition, the governing body shall give notice of the filing of the petition and of the time and place set for a public hearing on the petition, which hearing shall be at a regular or special meeting held within not less than thirty (30) days nor more than ninety (90) days after the date of the filing of the petition. A notice of the time of the public hearing shall be published by the governing body twice, the first

time not less than twelve (12) days prior to the hearing and the second time not less than five (5) days prior to the hearing, in a newspaper of general circulation in each county or city in which the proposed district will be located. A copy of such notice shall also be mailed to each district resident and each owner of real property in the district if known or such owner's agent if known, addressed to such person at his or her post office address if known or, if unknown, to a post office in the county or city where the district is located. Ownership of real property shall be determined as of the date of the adoption of the resolution ordering the hearing. The notice shall state that a community infrastructure district is proposed to be formed, giving the proposed boundaries thereof, and that any person who is a resident of or a real property taxpayer within the proposed district may, on the date fixed for the public hearing, appear and offer any testimony and submit written testimony prior thereto pertaining to the formation of the district and the proposed boundaries thereof. If the district will be located within two (2) or more counties and/or cities, the governing bodies of such counties and/or cities shall coordinate their efforts and shall either hold a public hearing in each county or city in which the proposed district will be located, or hold a single public meeting in such county or city as the governing bodies shall unanimously agree. The notice shall also state that any political subdivision of this state within whose jurisdiction the proposed district will be located, including, without limitation, a highway district, a school district, a fire district or an ambulance district, may, on the date fixed for the public hearing, appear and offer testimony and submit written testimony prior thereto pertaining to the formation of the district and the proposed boundaries thereof. After hearing and considering any and all of the testimony given, the governing body shall thereupon approve a resolution either denying the petition or granting the same and, if granting the same, shall fix and describe in the resolution the boundaries of the proposed district and order the formation of the same. A resolution granting the petition may also include the approval of any district development agreement that has been approved by the governing body in the process of considering and approving the formation of the district. The boards of county commissioners and/or the city councils, as such governing bodies, are hereby specifically authorized to act in a joint manner for such purposes.

(3) Whenever a petition shall be filed as provided for in this section, the petitioner or petitioners shall deposit with each governing body a sum sufficient to defray the costs of publication and mailing of notice of the public hearing. In the event the district is formed, said petitioner or petitioners shall be entitled to be reimbursed such sum from the district, as a district formation cost related to the community infrastructure, from the district when moneys are available to the district. The amount required to be paid under this subsection shall be determined by each governing body and deposited before publication of the notice.

(4) The governing body may charge the petitioner or petitioners a reasonable fee for the governing body to retain outside advisors to assist the governing body in its consideration of the formation of the district. In the event the district is formed, the petitioner or petitioners shall be entitled to be reimbursed such fee from the district, as a district formation cost related to the community infrastructure, when moneys are available to the district.

SECTION 3. That Section 50-3104, Idaho Code, be, and the same is hereby amended to read as follows:

50-3104. DISTRICT ORGANIZATION. (1) If the petition for formation of the district is granted, the district shall comply with the filing and recording requirements of section 63-215, Idaho Code, and shall also cause a copy of the applicable resolution to be delivered to the county assessor of

each county in which the district is located, cause a copy of the applicable resolution to be recorded with the county clerk in each county in which the district is located, and cause a copy of the applicable resolution to be filed with the state tax commission.

(2) Members of the governing body or bodies at the time of formation shall serve as the district board. If the district is located entirely within the boundaries of a city, three (3) members of the city council chosen by the city council shall serve as the district board. If the district is located entirely within the boundaries of a county and outside the boundaries of any city, the county commissioners of the county in which the district is located shall serve as the district board. If the district is located within the jurisdiction of more than one (1) governing body, two (2) members of each governing body shall be appointed by that governing body to serve on the district board and, in addition, the governing body within whose jurisdiction the largest land area of the district is located shall appoint another member from its governing body to serve as an additional member of the district board, so that the district board will always be comprised of an odd number of members. For purposes of determining which jurisdiction has such largest land area, the land area in the district that is within the incorporated city limits shall be considered as being the land area of the city, and shall not be considered as part of the land area of the county in which the city is located. If an area is added to the district pursuant to section 50-3106(2), Idaho Code, and such area is located in a city or county not already represented on the district board, or if the addition of such area changes the jurisdiction in which the largest land area of the district is located, the membership of the district board, at the time of addition of such area, shall be adjusted in conformity with the foregoing. If an area is deleted from the district pursuant to section 50-3106(1), Idaho Code, and, as a result, a county or city no longer has area within the district, or such deletion changes the jurisdiction in which the largest land area of the district is located, the membership of the district board, at the time of deletion of such area, shall be adjusted in conformity with the foregoing. If an area is annexed or deannexed by a city and, as a result, the jurisdiction of a county or city is changed, the membership of the district board at the time of such annexation or deannexation shall be adjusted in conformity with the foregoing. The boards of county commissioners and the city councils, as such governing bodies, are hereby specifically authorized to act in a joint manner for such purposes.

(3) Within thirty (30) days after the date of the resolution ordering formation of the district, and annually thereafter, the district board shall meet and elect a chairman and vice-chairman to act as the officers of the district board. The district board shall, unless otherwise agreed to by a majority of the board, meet in the county or city within which the largest land area of the district is located. The district shall keep the following records, which shall be open to public inspection:

- (a) Minutes of all meetings of the district board;
- (b) All resolutions;
- (c) Accounts showing all moneys received and disbursed;
- (d) The annual budget; and
- (e) All other records required to be maintained by law.

(4) The district manager shall be the manager or equivalent of the city or county, the district treasurer shall be the treasurer of the city or county, the district clerk shall be the district clerk of the city or county, respectively, unless the district board engages an outside firm to perform the tasks of the district's manager, treasurer and clerk as well as other duties as may be prescribed by the district board. Where a district contains multiple county or city jurisdictions, the board shall designate by resolution the manager, treasurer and clerk.

(5) The district manager shall have charge and supervision of the daily operations of the district. The district manager may hire or otherwise employ and terminate the employment of such persons, including professional, supervisory and clerical employees, as may be necessary and authorized by the board.

(6) The treasurer of the district shall have such duties as the district board may prescribe, together with the duty to keep account with the district; to place to the credit of the district all moneys received by him or her from the collection of special assessments, taxes or from any other sources, and all other moneys belonging to the district, and to pay over all moneys belonging to the district on legally drawn warrants or orders of the district board.

(7) The clerk of the district shall have such duties as the district board may prescribe, together with the duty to conduct district elections and to prepare and distribute legal notices.

(8) The district shall be separate and apart from any county or city. The members of the district board, when serving in their official capacity as members of the district board, shall act on behalf of the district and not as members of a board of county commissioners or as members of a city council.

(9) The district board shall administer in a reasonable manner the implementation of the general plan.

(10) The district shall exist until dissolved pursuant to section 50-3116, Idaho Code.

SECTION 4. That Section 50-3108, Idaho Code, be, and the same is hereby amended to read as follows:

50-3108. GENERAL OBLIGATION BONDS -- ELECTION -- MAXIMUM INDEBTEDNESS ALLOWED -- LEVY. (1) After district formation, whenever the district board shall deem it advisable to issue general obligation bonds of the district, the district board shall provide therefor by resolution, which resolution shall specify and set forth the community infrastructure and other costs and expenses approved by the district board consistent with the general plan to be financed with the bonds, and make provision for the collection of an annual tax sufficient to pay the interest on the bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof as required by the constitution and laws of the state of Idaho.

(2) The resolution shall also provide for holding an election, held in compliance with section 50-3112, Idaho Code, to submit to the qualified electors of the district the question of authorizing the district to issue general obligation bonds of the district to provide money for said community infrastructure consistent with the general plan. The ballot used in such election shall be in form substantially as follows: "In favor of issuing bonds to the amount of dollars for the purpose stated in Resolution No. ...," and "Against issuing bonds to the amount of dollars for the purpose stated in Resolution No. ...".

(3) If two-thirds (2/3) of the qualified electors at such election assent to the issuing of the bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, the district board shall thereupon be authorized to issue and create such indebtedness in the manner and for the purposes specified in said resolution, and the bonds shall be issued and sold in the manner provided by the laws of the state of Idaho, and the district board by further resolution shall be entitled to issue and sell the bonds in series or divisions up to the authorized amount without the further vote of the qualified electors, and to issue and sell such bonds at such times and in such amounts as the district board deems appropriate to carry out a community infrastructure project or projects in phases; provided however, that before any issuance of the bonds, including issuance in series or divisions and, in addition to such other determinations made by

the district board as it may deem reasonable and prudent, the district board shall also determine whether reasonable financial assurance for the payment of the debt service on the bonds through additional collateral, payment guarantee or otherwise shall be required from a developer. The developer shall be consulted and shall be given a reasonable period of time within which to appear, either in person or in writing, and respond to any proposed financial assurance. If, following such developer's response, the district board determines that reasonable financial assurance shall be required, the district board shall specify the type and amount of the financial assurance required in its resolution.

(4) In no event shall the aggregate outstanding principal amount of general obligation bonds and any other indebtedness for which the full faith and credit of the district are pledged exceed ~~twelve~~ nine percent (129%) of the actual or adjusted market value for assessment purposes on all taxable real property within the district as such valuation existed on December 31 of the previous year.

(5) After the bonds are issued, the district shall enter in its minutes a record of the bonds sold and their number and dates and shall periodically collect the pledged revenues to pay the debt service on the bonds when due.

(6) Bond proceeds received by the district shall be held in a segregated account and shall be disbursed therefrom only for:

(a) The payment of community infrastructure and/or community infrastructure segments approved by the district board and actually completed; or

(b) For the purpose of reimbursing actually paid expenditures relating to community infrastructure as approved by the district board; provided however, that lien releases with respect to the payment made must be obtained from the underlying providers of labor, work, services or materials as a condition to such payment; or

(c) For the payment or reimbursement of governmentally imposed impact fees as approved by the district board.

(7) Completion of community infrastructure may be phased and payment made pursuant to a draw schedule. Bond proceeds shall be expended on the community infrastructure within three (3) years after issuance. Prior to issuance of the bonds, the district board shall determine that such bond proceeds can reasonably be expended within that time.

(8) Each year, prior to the time for the certification required under section 50-3114, Idaho Code, the district board shall levy a tax upon all taxable real property within the district, sufficient, together with any money from the sources described in section 50-3107(3), Idaho Code, to pay debt service on the bonds when due. The levy shall be made by resolution entered upon the minutes of the district board, and it shall be the duty of the clerk of the district, immediately after entry of the resolution in the minutes, to transmit to the board of county commissioners in each county in which the district is located the certification required under section 50-3114, Idaho Code. Such tax levied shall then be collected and accounted for at the time and in the form and manner as other taxes are collected and accounted for under the laws of this state. Moneys derived from the levy of property taxes to pay the debt service on the bonds shall be kept separately from other funds of the district. A district's levy of property taxes shall constitute a lien on all taxable real property within the district.

(9) The district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by this section. The principal amount of the refunding bonds may be more or less than the principal amount of the bonds being refunded, provided that the proceeds of the refunding bonds are used only for refunding purposes and payment of the costs thereof, and the total obligation of the district is not increased, that is, if the amount of the refunding bonds is more than the principal amount of the bonds being refunded, issuance of the refunding bonds will result in a net present value

savings to the district. No election shall be required in connection with the issuance and sale of such refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

SECTION 5. That Section 50-3109, Idaho Code, be, and the same is hereby amended to read as follows:

50-3109. SPECIAL ASSESSMENTS -- BONDS. (1) After district formation, upon the submission of a petition signed by all no fewer than two-thirds (0.6667) of the owners of all the lands located in a proposed assessment area, or whenever the district board shall deem it advisable, the district board shall adopt a resolution ordering that a hearing be held to determine whether a special assessment should be imposed and special assessment bonds be issued to provide money for community infrastructure consistent with the general plan and the exercise by the district board of any of its powers under section 50-3105, Idaho Code.

(2) Notice of the hearing shall be posted in three (3) public places within the boundaries of the district not less than thirty (30) days before the hearing. Notice of the hearing shall also be published twice, the first time not less than twelve (12) days prior to the hearing and the second time not less than five (5) days prior to the hearing, in a newspaper of general circulation in each county or city in which the district is located. A copy of such notice shall also be mailed to each district resident and each owner of real property in the district if known or such owner's agent if known, addressed to such person at his or her post office address if known or, if unknown, to a post office in the county or city where the district is located. Ownership of real property shall be determined as of the date of the adoption of the resolution ordering the hearing. The notice shall include the following:

- (a) A description of the real property to be included within the assessment area;
- (b) A description of the method by which the amount of the proposed special assessment will be determined for each class of real property to which the special assessment is proposed to apply, in sufficient detail to enable the owner of the affected parcel to determine the amount of the special assessment;
- (c) A description of the community infrastructure to be financed with special assessment bonds or revenues; and
- (d) A statement that any person affected by the proposed special assessment may object in writing or in person at the hearing.

(3) If, after the hearing, the district board finds that it will be for the best interest of the district and the real property within the assessment area that the aggregate fair market value of the real property within the assessment area, including the value of the community infrastructure to be financed or paid for with the special assessments, and the infrastructure for which performance bonds or other financial assurances have been received, is at least three (3) times the aggregate principal amount of the special assessment bonds as determined by an MAI appraisal in form and substance acceptable to the district board, the district board shall adopt a resolution approving the imposition of the special assessment and, also by resolution, shall prepare a form of assessment roll numbering each assessment, giving the name, if known, of the owner of each lot or parcel of real property assessed, showing the amount chargeable to each such lot or parcel, and finding that each such lot or parcel is benefited to the amount of assessment imposed thereon. Such resolution shall be the final determination of the regularity, validity and correctness of the assessment roll, of each assessment contained therein, and of the amount thereof imposed on each such lot or parcel. Special assessments may be prepaid and permanently satisfied in whole

or in part at any point in time. Prepayment of special assessments shall be paid in cash to the district in the following manner: (i) the interest on such portion to the next date special assessment bonds may be redeemed, plus (ii) the unpaid principal amount of such portion rounded up to the next highest multiple of one thousand dollars (\$1,000), plus (iii) any premium due on such redemption date with respect to such portion, plus (iv) any administrative or other fees charged by the district with respect thereto, less (v) the amount by which any reserve fund associated with the special assessment may be reduced on the redemption date as a result of such prepayment.

(4) Special assessment bonds approved at the hearing shall be issued in the manner provided by the laws of the state of Idaho, and the district board by further resolution shall be entitled to issue and sell the bonds in series or divisions up to the authorized amount without further hearing, and to issue and sell such bonds at such times and in such amounts as the district board deems appropriate to carry out a community infrastructure project or projects in phases. Bond proceeds shall be expended on the community infrastructure within three (3) years after issuance. Prior to issuance of the bonds, the district board shall determine that such bond proceeds can reasonably be expended within such time.

(5) After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall periodically collect the pledged revenues to pay the debt service on the bonds when due.

(6) Each year, prior to the time for the certification required under section 50-3114, Idaho Code, the district board shall impose a special assessment upon the real property within the assessment area of the district that will be subject to the special assessment sufficient, together with any moneys from the sources described in section 50-3107(3), Idaho Code, to pay debt service on the bonds when due, in addition to reasonable costs associated with the collection of the special assessment payments. The special assessment shall be made by resolution entered upon the minutes of the district board, and it shall be the duty of the clerk of the district, immediately after entry of the resolution in the minutes, to transmit to the board of county commissioners in each county in which the district is located, the certification required under section 50-3114, Idaho Code. Such special assessment shall then be collected and accounted for at the time and in the form and manner as property taxes are collected and accounted for under the laws of this state. Moneys derived from the imposition of the special assessment to pay the debt service on the bonds shall be kept separately from other moneys of the district.

(7) Special assessments against privately owned residential property shall be subject to the following provisions:

(a) The maximum amount of any special assessment that may be imposed shall not be increased over time by any amount exceeding two percent (2%) per year, up to a maximum of ten percent (10%);

(b) The special assessment shall be imposed for a specified time period, after which no further special assessment shall be imposed and collected; and

(c) Subject to the applicable laws of this state, nothing in this subsection shall preclude the establishment of different categories of residential property or changing the amount of the special assessment imposed upon a parcel whose size or use is changed. A change in the amount of a special assessment imposed upon a parcel due to a change in its size or use shall not require notice and hearing, if the method for changing the amount of special assessment was approved at the hearing approving the special assessment and was described in sufficient detail to enable the owner of the affected parcel to determine how the change in size or use of the parcel would affect the amount of the special assessment.

(8) A district's imposition of a special assessment shall constitute a lien on the real property within the assessment area subject to the special assessment, including real property acquired by the state or its political subdivisions after the imposition of the special assessment, which shall be effective during the period in which the special assessment is imposed and shall have a priority coequal to the lien of real property taxes. A special assessment shall be subject to foreclosure by the district in the same manner as real property tax liens under the laws of this state, provided that a special assessment shall be subject to foreclosure at any time after thirty (30) days following written notice of delinquency to the owner of the real property to which the delinquency applies. The portion of proceeds of any foreclosure sale necessary to discharge the lien for the special assessment shall be deposited in the special bond fund for payment of any obligations secured thereby.

(9) No holder of special assessment bonds issued pursuant to this chapter may compel any exercise of the taxing power of the district, county or city to pay the bonds or the interest on the bonds. Special assessment bonds issued pursuant to this chapter are not a debt of the state of Idaho or any political subdivision thereof including the district, county or city, nor is the payment of special assessment bonds enforceable out of any moneys other than the revenue pledged to the payment of the bonds.

(10) Subject to the provisions of this section, a district may issue special assessment bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases, and payment may be made pursuant to a draw schedule.

(11) The district may issue and sell refunding bonds to refund any special assessment bonds of the district authorized in this chapter. The principal amount of the refunding bonds may be more or less than the principal amount of the bonds being refunded, provided the proceeds of the refunding bonds are used only for refunding purposes and payment of the costs thereof, and the total obligation of the district is not increased, that is, if the amount of the refunding bonds is more than the principal amount of the bonds being refunded, issuance of the refunding bonds will result in a net present value savings to the district. No election shall be required in connection with the issuance and sale of such refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

SECTION 6. That Section 50-3119, Idaho Code, be, and the same is hereby amended to read as follows:

50-3119. APPEAL -- EXCLUSIVE REMEDY -- CONCLUSIVENESS. Any person in interest who feels aggrieved by the final decision of a governing body or a district board in the formation or governing of a district, including, with respect to any tax levy, special assessment or bond, may, within ~~thirty~~ sixty (360) days after such final decision, seek judicial review by filing a written notice of appeal with the clerk of the district and with the clerk of the district court for the judicial district in which a majority of the land area of the district is located. After said ~~thirty~~ sixty (360) day period has run, no one shall have any cause or right of action to contest the legality, formality or regularity of said decision for any reason whatsoever and, thereafter, said decision shall be considered valid and uncontestable and the validity, legality and regularity of any such decision shall be conclusively presumed. With regard to the foregoing, if the question of validity of any bonds issued pursuant to this chapter is not raised on appeal as aforesaid, the authority to issue the bonds, the legality thereof and of the levies or assessments necessary to pay the same shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters.

Approved April 5, 2012.

CHAPTER 325
(H.B. No. 619, As Amended)

AN ACT

RELATING TO SPEED LIMITS; AMENDING SECTION 49-105, IDAHO CODE, TO REMOVE A PROVISION RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES; AMENDING SECTION 49-201, IDAHO CODE, TO REMOVE A PROVISION RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-202, IDAHO CODE, TO REMOVE A PROVISION RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES; AMENDING SECTION 49-207, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES, TO REVISE PROVISIONS RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-208, IDAHO CODE, TO REMOVE A PROVISION RELATING TO REGULATION OF SPEED BY LOCAL AUTHORITIES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-654, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MAXIMUM SPEED LIMITS.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D. (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or motorbikes, travel trailers, truck campers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. ~~Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.~~

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Downgrade" as it pertains to commercial drivers licensing shall mean either:

(a) The driver has changed his or her medical requirement self-certification to interstate but operates exclusively in transportation or operations excepted from part 391 of the federal motor carrier safety regulations; or

(b) The driver has changed his or her medical requirement self-certification to intrastate and operates exclusively in transportation or operations as listed in section 67-2901B(2), Idaho Code; or

(c) The driver no longer has commercial motor vehicle driving privileges, but has retained privileges to drive noncommercial motor vehicles.

(14) "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 out-distance 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.

(15) "Driver" means every person who drives or is in actual physical control of a vehicle.

(16) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the indi-

vidual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(17) "Driver's license -- Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(18) "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.

(19) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the mo-

tor 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 or motor-driven cycle.

(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.

(20) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(21) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-201, Idaho Code, be, and the same is hereby amended to read as follows:

49-201. DUTIES OF BOARD. (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the Idaho state police, and section 49-447, Idaho Code, which shall be the responsibility of the director of the department of parks and recreation, the board shall adopt and enforce administrative rules and may designate agencies or enter into agreements with private companies or public entities as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code. The board may approve, on a case-by-case basis, exemption from operating fees for private nonprofit entities who are bringing public interest programs into the state. These entities may not be in competition with companies who transport goods and services for hire.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with, and, so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic-control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways and sixty-five (65) miles per hour on state highways, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs. ~~The authority of the board to establish speed limits on state highways pursuant to this section does not restrict the authority of the duly elected officials of an incorporated city acting in the capacity of a local authority to establish lower speed limits for portions of state highways, excluding controlled access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city, for the purpose of enhancing motorist and pedestrian safety.~~

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which fees shall be computed.

SECTION 3. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

- (a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license \$14.00
- (b) For issuing every Idaho certificate of title \$14.00
- (c) For furnishing a duplicate copy of any Idaho certificate of title \$14.00
- (d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section . . . \$26.00
- (e) For recording a transitional ownership document, in addition to any other fee required by this section \$26.00
- (f) For furnishing a replacement of any receipt of registration \$5.00
- (g) For furnishing copies of registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record \$7.00
- Additional contractor fee, not to exceed \$4.00
- (h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour . . \$18.00

- (i) Placing "stop" cards in vehicle registration or title files, each \$21.00
- (j) For issuance of an assigned or replacement vehicle identification number (VIN) \$18.00
- (k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection \$5.00
- (l) For all replacement registration stickers, each \$2.00
- (m) For issuing letters of temporary vehicle clearance to Idaho-based motor carriers \$18.00
- (n) For all sample license plates, each \$21.00
- (o) For filing release of liability statements \$3.50
- (p) For safety and insurance programs for each vehicle operated by a motor carrier \$3.00

A lesser amount may be set by rule of the board.

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2) (g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (a) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2) (a) through (f) of this section, and four dollars (\$4.00) as provided in subsection (2) (g) of this section, to the county assessor or sheriff of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account.

(b) The fee collected under subsection (2) (k) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the Idaho state police if conducted by the Idaho state police or in the state highway account if conducted by the department.

(c) The fee collected under subsection (2) (o) of this section for filing release of liability statements shall be retained by the county assessor of the county collecting such fee, and shall be deposited with the county treasurer and credited to the county current expense fund.

(d) The fee in subsection (2) (m) of this section shall not apply when the Idaho-based motor carrier or its representative obtains and prints the document using internet access.

(e) The fee collected under subsection (2) (p) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway account. The director and the director of the Idaho state police shall jointly determine the amount to be transferred from the state highway account to the law enforcement fund for motor carrier safety programs conducted by the Idaho state police pursuant to the provisions of section 67-2901A, Idaho Code.

(6) The department as often as practicable may provide to law enforcement agencies the record of suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Ada county all instruments required in chapter 5 of this title to be filed with the department,

shall prescribe a uniform method of numbering certificates of title, and shall maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including insufficient fund checks.

(11) The department or its authorized agents have the authority to request any person to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier requests revocation, or whenever an interstate carrier's federal operating authority has been revoked;

(e) For failure of the owner or operator to file the reports required or nonpayment of audit assessments or fees assessed against the owner by the department or the state tax commission pursuant to audit under the provisions of section 49-439, Idaho Code;

(f) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 U.S.C. section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (f) unless:

(i) The city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and

(ii) The city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays.

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills tests without compulsion except as provided by law.

(17) The department shall employ expert and special help as needed in the department.

(18) The department shall compile accident statistics and disseminate information relating to those statistics.

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission, ~~except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.~~ The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and, if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs, ~~except in cases where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.~~

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might oc-

cur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

SECTION 4. That Section 49-207, Idaho Code, be, and the same is hereby amended to read as follows:

49-207. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring, from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving, or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions, ~~including the duly elected officials of an incorporated city acting in the capacity of a local authority,~~ determine on the basis of an engineering or traffic investigation, and the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district that the speed limit permitted under this title is greater than is reasonable and safe under the conditions found to exist upon a highway or part of a highway or because of the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

(a) Decreases the limit within a residential, business or urban district; ~~or~~

(b) Increases the limit within a nonresidential area of an urban district but not to more than sixty-five (65) miles per hour; or

(c) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of sixty-five (65) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) ~~Any decreased altered~~ speed limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway ~~according to requirements of.~~ Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department. Provided however, that any alteration of speed limits must be based upon a traffic engineering study approved by the department and completed according to department standards. The alteration of speed limits by local authorities shall be done in consultation with the department. In the event of disagreement between the department and local authorities, the department traffic study shall be adopted, unless the local government traffic study is submitted to the Idaho transportation department board and the board adopts the local study in whole or in part.

~~(5) Upon the decision of the duly elected officials of an incorporated city to decrease the speed limit on highways within the city, excluding controlled access and interstate highways, the city will notify in writing the local district office of the department prior to implementing the change in speed limits. The department shall have thirty (30) days from the day written notice is received to assist implementation, such as providing transitional speed limit signs and taking other steps necessary to preserve public safety.~~

SECTION 5. That Section 49-208, Idaho Code, be, and the same is hereby amended to read as follows:

49-208. POWERS OF LOCAL AUTHORITIES. (1) The provisions of this title shall not be deemed to prevent local authorities with respect to highways under their jurisdiction and within the reasonable exercise of the police power from:

(a) Regulating or prohibiting stopping, standing or parking;

(b) Regulating traffic by means of peace officers or traffic-control devices;

(c) Regulating or prohibiting processions or assemblages on the highways;

(d) Designating particular highways for use by traffic moving in one

(1) direction;

- (e) Establishing speed limits for vehicles in public parks;
- (f) Designating any highway as a through highway or designating any intersection or junction of highways as a stop or yield intersection or junction;
- (g) Restricting the use of highways as authorized in chapter 10, title 49, Idaho Code;
- (h) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (i) Altering or establishing speed limits;
- (j) Designating no-passing zones;
- (k) Prohibiting or regulating the use of controlled-access highways by any class or kind of traffic;
- (l) Prohibiting or regulating the use of heavily traveled highways by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (m) Establishing minimum speed limits;
- (n) Prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk;
- (o) Restricting pedestrian crossings at unmarked crosswalks;
- (p) Establishing the maximum speed of vehicles on a bridge or other elevated structure;
- (q) Requiring written accident reports;
- (r) Regulating persons propelling pushcarts;
- (s) Regulating persons upon skates, coasters, sleds and other toy vehicles;
- (t) Adopting and enforcing temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (u) Prohibiting drivers of ambulances from exceeding maximum speed limits;
- (v) Adopting such other traffic regulations as are specifically authorized by this title;
- ~~(w) Allowing the duly elected officials of an incorporated city acting in the capacity as a local authority to establish maximum speed limits on portions of state highways, excluding controlled access and interstate highways, in residential, urban or business districts within the jurisdiction of the incorporated city, so long as the maximum speed limit established by the incorporated city is lower than the maximum speed limit established by the department and is intended to promote motorist and pedestrian safety.~~

(2) No ordinance or regulation enacted under paragraphs (d) through (p) of subsection (1) of this section shall be effective until traffic-control devices giving notice of local traffic regulations are erected upon or at the entrances to the highway or part affected as may be most appropriate.

(3) No local authority shall erect or maintain any traffic-control device at any location so as to require traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department.

(4) Local authorities by ordinance may adopt by reference all or any part of title 49, Idaho Code, without publishing or posting in full the provisions thereof, provided that not less than one (1) copy is available for public use and examination in the office of the clerk.

(5) Local authorities may adopt an ordinance establishing procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from private or public property, including highways, provided the ordinance is not in conflict with the provisions of this title.

SECTION 6. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

(a) ~~Thirty-five (35) miles per hour or a lesser maximum speed adopted pursuant to in any residential, business or urban district, unless otherwise posted in accordance with section 49-207(2) (a) or (3), Idaho Code, in any residential, business or urban district;~~

(b) ~~Thirty-five (35) miles per hour in any urban district;~~

~~(c) Seventy-five (75) miles per hour on interstate highways;~~

(dc) Sixty-five (65) miles per hour on state highways;

(ed) Fifty-five (55) miles per hour in other locations unless otherwise posted up to a maximum of sixty-five (65) miles per hour.

(3) The maximum lawful speed limit on interstate highways shall not exceed sixty-five (65) miles per hour for vehicles with five (5) or more axles operating at a gross weight of more than twenty-six thousand (26,000) pounds.

Approved April 5, 2012.

CHAPTER 326
(H.B. No. 624)

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1506, IDAHO CODE, TO PROHIBIT TRUSTEES FROM HAVING A FINANCIAL INTEREST IN A NEWSPAPER PUBLISHING CERTAIN NOTICES AND TO PROHIBIT TRUSTEES FROM PROFITING, DIRECTLY OR INDIRECTLY, BASED ON REQUISITE PUBLICATION OF NOTICE OF TRUSTEE'S SALE, TO PROVIDE THAT SUCH CONDUCT SHALL CONSTITUTE A MISDEMEANOR AND TO PROVIDE PENALTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-1506, Idaho Code, be, and the same is hereby amended to read as follows:

45-1506. MANNER OF FORECLOSURE -- NOTICE -- SALE. (1) A trust deed may be foreclosed in the manner provided in this section.

(2) Subsequent to recording notice of default as hereinbefore provided, and at least one hundred twenty (120) days before the day fixed by the trustee for the trustee's sale, notice of such sale shall be given by registered or certified mail, return receipt requested, to the last known address of the following persons or their legal representatives, if any:

(a) The grantor in the trust deed and any person requesting notice of record as provided in section 45-1511, Idaho Code.

(b) Any successor in interest of the grantor including, but not limited to, a grantee, transferee or lessee, whose interest appears of record prior to the recording of the notice of default, or where the trustee or the beneficiary has actual notice of such interest.

(c) Any person having a lien or interest subsequent to the interest of the trustee in the trust deed where such lien or interest appears of record prior to the recording of the notice of default, or where the trustee or the beneficiary has actual notice of such lien or interest.

(3) The disability, insanity or death of any person to whom notice of sale is to be given under subsection (2) of this section shall not delay or impair in any way the trustee's right under a trust deed to proceed with a sale under such deed, provided the notice of sale required under subsection (2) of this section has been mailed as provided by law for service of summons upon incompetents or to the administrator or executor of the estate of such person.

(4) The notice of sale shall set forth:

(a) The names of the grantor, trustee and beneficiary in the trust deed.

(b) A description of the property covered by the trust deed.

(c) The book and page of the mortgage records or the recorder's instrument number where the trust deed is recorded.

(d) The default for which the foreclosure is made.

(e) The sum owing on the obligation secured by the trust deed.

(f) The date, time and place of the sale which shall be held at a designated time after 9:00 a.m. and before 4:00 p.m., standard time, and at a designated place in the county or one (1) of the counties where the property is located.

(5) At least three (3) good faith attempts shall be made on different days over a period of not less than seven (7) days each of which attempts must be made at least thirty (30) days prior to the day of the sale to serve a copy of the notice of sale upon an adult occupant of the real property in the manner in which a summons is served. At the time of each such attempt, a copy of the notice of sale shall be posted in a conspicuous place on the real property unless the copy of the notice of sale previously posted remains conspicuously posted. Provided, however, that if during such an attempt personal service is made upon an adult occupant and a copy of the notice is posted, then no further attempt at personal service and no further posting shall be required. Provided, further, that if the adult occupant personally served is a person to whom the notice of sale was required to be mailed, and was mailed, pursuant to the foregoing subsections of this section, then no posting of the notice of sale shall be required.

(6) A copy of the notice of sale shall be published in a newspaper of general circulation in each of the counties in which the property is situated once a week for four (4) successive weeks, making four (4) publishings in all, with the last publication to be at least thirty (30) days prior to the day of sale. It shall be unlawful for the trustee for the trustee's sale to have a financial interest in a newspaper publishing such notice or to profit, directly or indirectly, based on the publication of such notice of sale and such conduct shall constitute a misdemeanor, punishable by imprisonment in the county jail for a term not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000), or by both such fine and imprisonment.

(7) An affidavit of mailing notice of sale and an affidavit of posting, when required, and publication of notice of sale as required by subsection (6) of this section shall be recorded in the mortgage records in the counties in which the property described in the deed is situated at least twenty (20) days prior to the date of sale.

(8) The sale shall be held on the date and at the time and place designated in the notice of sale or notice of rescheduled sale as provided in section 45-1506A, Idaho Code, unless the sale is postponed as provided in this subsection or as provided in section 45-1506B, Idaho Code, respecting the effect of an intervening stay or injunctive relief order. The trustee shall sell the property in one (1) parcel or in separate parcels at auction to the highest bidder. Any person, including the beneficiary under the trust deed, may bid at the trustee's sale. The attorney for such trustee

may conduct the sale and act in such sale as the auctioneer of trustee. The trustee may postpone the sale of the property upon request of the beneficiary by publicly announcing at the time and place originally fixed for the sale, the postponement to a stated subsequent date and hour. No sale may be postponed to a date more than thirty (30) days subsequent to the date from which the sale is postponed. A postponed sale may itself be postponed in the same manner and within the same time limitations as provided in this subsection. For any loan made by a state or federally regulated beneficiary, which loan is secured by a deed of trust encumbering the borrower's primary residence, as determined pursuant to section 45-1506C(1), Idaho Code, the trustee, prior to conducting any trustee's sale previously postponed pursuant to this section, shall mail notice of such trustee sale at least fourteen (14) days prior to conducting such sale by the same means and to the same persons as provided in subsection (2) of this section. The trustee or beneficiary shall, prior to conducting the trustee's sale, record an affidavit of mailing confirming that such notice has been mailed as required by this section. The filing of such affidavit of mailing is conclusive evidence of compliance with this section as to any party relying on said affidavit of mailing.

(9) The purchaser at the sale shall forthwith pay the price bid and upon receipt of payment the trustee shall execute and deliver the trustee's deed to such purchaser, provided that in the event of any refusal to pay purchase money, the officer making such sale shall have the right to resell or reject any subsequent bid as provided by law in the case of sales under execution.

(10) The trustee's deed shall convey to the purchaser the interest in the property which the grantor had, or had the power to convey, at the time of the execution by him of the trust deed together with any interest the grantor or his successors in interest acquired after the execution of such trust deed.

(11) The purchaser at the trustee's sale shall be entitled to possession of the property on the tenth day following the sale, and any persons remaining in possession thereafter under any interest except one prior to the deed of trust shall be deemed to be tenants at sufferance.

(12) Whenever all or a portion of any obligation secured by a deed of trust which has become due by reason of a default of any part of that obligation, including taxes, assessments, premiums for insurance or advances made by a beneficiary in accordance with the terms of the deed of trust, the grantor or his successor in interest in the trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record thereon, at any time within one hundred fifteen (115) days of the recording of the notice of default under such deed of trust, if the power of sale therein is to be exercised, or otherwise at any time prior to the entry of a decree of foreclosure, may pay to the beneficiary or their successors in interest, respectively, the entire amount then due under the terms of the deed of trust and the obligation secured thereby, including costs and expenses actually incurred in enforcing the terms of such obligation and a reasonable trustee's fee subject to the limitations imposed by subsection (6) of section 45-1502, Idaho Code, and attorney's fees as may be provided in the promissory note, other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust shall be reinstated and shall be and remain in force and effect, the same as if no acceleration had occurred.

(13) Any mailing to persons outside the United States and its territories required by this chapter may be made by ordinary first class mail if certified or registered mail service is unavailable.

(14) Service by mail in accordance with the provisions of this section shall be deemed effective at the time of mailing.

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, 2012.

CHAPTER 327
(H.B. No. 631, As Amended)

AN ACT

RELATING TO INTERMEDIATE CARE FACILITY ASSESSMENT; AMENDING SECTION 56-1603, IDAHO CODE, TO REMOVE A PROVISION RELATING TO ICF ADJUSTMENT PAYMENTS AND TO REMOVE A PROVISION RELATING TO FUNDS FOR MEDICAID TRUSTEE AND BENEFIT EXPENDITURES; AND AMENDING SECTION 26, CHAPTER 164, LAWS OF 2011, TO REMOVE A SUNSET CLAUSE.

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

SECTION 1. That Section 56-1603, Idaho Code, be, and the same is hereby amended to read as follows:

56-1603. INTERMEDIATE CARE FACILITY ASSESSMENT FUND. (1) There is hereby created in the office of the state treasurer a dedicated fund to be known as the ICF assessment fund to be administered by the department. The state treasurer shall invest idle moneys in the fund, and any interest received on those investments shall be returned to the fund.

(2) Moneys in the fund shall consist of:

- (a) All moneys collected or received by the department from ICF assessments required pursuant to this chapter;
- (b) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited in the fund;
- (c) Any interest or penalties levied in conjunction with the administration of this chapter; and
- (d) Any appropriation or federal funds.

(3) The fund is created for the purpose of receiving moneys in accordance with the provisions of this section and section 56-1604, Idaho Code. The fund shall not be used to replace any moneys appropriated to the Idaho medical assistance program by the legislature. Moneys in the fund, which are deemed to be perpetually appropriated, shall be used exclusively for the following purposes:

- (a) To pay administrative expenses incurred by the department or its agent in performing the activities authorized pursuant to this chapter, provided that such expenses shall not exceed a total of one percent (1%) of the aggregate assessment funds collected for the prior fiscal year.
- (b) To reimburse the medicaid share of the assessment as a pass-through.
- (c) To secure federal matching funds available through the state medicaid plan, which funds shall be used to make medicaid payments for ICF services that equal or exceed the amount of ICF medicaid rates, in the aggregate, as calculated in accordance with the approved state medicaid plan in effect on July 1, 2011.
- (d) To increase ICF payments to fund covered services to medicaid beneficiaries within medicare upper payment limits.
- (e) ~~To, at a minimum, make ICF adjustment payments that restore any rate reductions, in the aggregate, for the state fiscal years 2011 and 2012, within medicare upper payment limits.~~

~~(f)~~ To make refunds to ICFs pursuant to section 56-1607, Idaho Code. If an ICF is unable to refund payments, the state shall develop a payment plan and deduct moneys from future medicaid payments. The state will refund the federal government for the federal share of these overpayments.

~~(g)~~ To make transfers to any other fund in the state treasury, provided such transfers shall not exceed the amount transferred previously from that other fund into the ICF assessment fund.

~~(h)~~ To provide state matching funds for department medicaid trustee and benefit expenditures to the extent that a general fund shortfall exists, or as limited by the maximum assessment as set forth in section 56-1604(2), Idaho Code, whichever is less.

SECTION 2. That Section 26, Chapter 164, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 26. Sections 22 and 23 of this act shall be in full force and effect on and after July 1, 2012. ~~The provisions of Section 24 of this act shall be null, void and of no force and effect on and after July 1, 2012.~~

Approved April 5, 2012.

CHAPTER 328

(H.B. No. 639, As Amended)

AN ACT

RELATING TO CONTRACTS; AMENDING SECTION 29-110, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITATIONS ON THE RIGHT TO SUE UNDER CONTRACT, TO PROVIDE APPLICATION TO ARBITRATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 29-110, Idaho Code, be, and the same is hereby amended to read as follows:

29-110. LIMITATIONS ON RIGHT TO SUE -- UNDER CONTRACT OR FRANCHISE AGREEMENT. (1) Every stipulation or condition in a contract, by which any party thereto is restricted from enforcing his rights under the contract ~~by the usual proceedings in the ordinary Idaho tribunals, or which limits the time within which he may thus enforce his rights, is void as it is against the public policy of Idaho.~~ Nothing in this section shall affect contract provisions relating to arbitration so long as the contract does not require arbitration to be conducted outside the state of Idaho.

(2) Any condition, stipulation or provision in a franchise agreement is void to the extent it purports to waive, or has the effect of waiving, venue or jurisdiction of the state of Idaho's court system. Any condition, stipulation or provision in a franchise agreement, to the extent it purports to assert, or has the effect of asserting, the choice of law is enforceable. This subsection shall apply to any franchise agreement entered into or renewed on or after July 1, 2003, by any person who at the time of entering into or renewing such franchise agreement was a resident of this state or incorporated or organized under the laws of this state.

(3) As used in this section "franchise agreement" means a written contract or agreement by which:

(a) A person ("franchisee") is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a third party ("franchisor");

(b) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor of such plan or system; and

(c) The franchisee is required to pay the franchisor one thousand dollars (\$1,000) or more for the right to transact business pursuant to the plan or system. Such payments shall not include amounts paid:

- (i) As a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring the credit card; or
- (ii) For the purchase of goods at a bona fide wholesale price.

Approved April 5, 2012.

CHAPTER 329
(H.B. No. 651)

AN ACT

RELATING TO JUDGES; AMENDING SECTION 59-502, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SALARIES OF JUDGES.

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

SECTION 1. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. (1) Commencing on July 1, 2006~~12~~, the salary of the justices of the supreme court shall be one hundred ~~ten~~ twenty-one thousand five nine hundred dollars (~~\$110,500~~121,900) per annum, and the salary of the judges of the district courts shall be one hundred ~~three fourteen~~ thousand six three hundred dollars (~~\$103,600~~114,300) per annum. ~~Commencing on July 1, 2007, the annual salaries of the justices of the supreme court and the annual salaries of the judges of the district courts shall be increased by five percent (5%), and again commencing on July 1, 2008, the annual salaries of the justices of the supreme court and the annual salaries of the judges of the district courts shall be increased by three percent (3%).~~

(2) Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code.

(3) Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved April 5, 2012.

CHAPTER 330
(H.B. No. 660)

AN ACT

RELATING TO JUDGES' RETIREMENT AND COMPENSATION; AMENDING SECTION 1-2001, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPENSATION ON RETIREMENT FOR SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES; AMENDING SECTION 1-2001b, IDAHO CODE, TO REVISE PROVISIONS TO PROVIDE FOR CERTAIN NOTICES TO, FILINGS WITH AND RESPONSIBILITIES OF THE RETIREMENT BOARD; AMENDING SECTION 1-2002, IDAHO CODE, TO REQUIRE THE SUBMISSION OF A CERTAIN REPORT RELATING TO THE STATUS AND CONDITION OF THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE JUDGES' RETIREMENT FUND, TO PROVIDE POWERS AND DUTIES OF THE RETIREMENT BOARD, TO PROVIDE FOR INDEMNIFICATION AND TO REQUIRE THE SUBMISSION OF A CERTAIN ANNUAL REPORT RELATING TO THE STATUS AND CONDITION OF THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2003, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES IN CIVIL ACTIONS AND APPEALS, TO PROVIDE A CORRECT CODE REFERENCE, TO CORRECT A REFERENCE TO THE INDUSTRIAL COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES AND RELATING TO CONTRIBUTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2004A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO EMPLOYER CONTRIBUTIONS, AMOUNTS, RATES AND AMORTIZATION; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2004B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO EMPLOYEE CONTRIBUTIONS; AMENDING SECTION 1-2008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INVESTMENT OF THE JUDGES' RETIREMENT FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 1-2009, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO BENEFITS TO SURVIVING SPOUSES OF JUSTICES AND JUDGES; AMENDING SECTION 1-2010, IDAHO CODE, TO REVISE PROVISIONS TO PROVIDE THAT CERTAIN INFORMATION BE ON FILE WITH THE RETIREMENT BOARD; AMENDING SECTION 1-2012, IDAHO CODE, TO REVISE PROVISIONS TO GRANT THE RETIREMENT BOARD RULEMAKING AUTHORITY; PROVIDING A SUNSET DATE AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-2001, Idaho Code, be, and the same is hereby amended to read as follows:

1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT. (1) (a) Every person who served as a justice of the supreme court or judge of the court of appeals or district judge of the district court and is who was receiving benefits from the judges' retirement fund before July 1, 2000, for such service, shall be entitled to benefits from the fund according to the formula for calculating such benefits as provided in section 1-2001(2) (a), Idaho Code.

(b) The term "retirement board" as used in this chapter shall mean the retirement board created by section 59-1304, Idaho Code.

(2) Any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state shall prior to retirement elect in writing to retire under either paragraph (a) or (b) of this subsection, provided that a person who has first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, and who is eligible to receive an annual retirement compensation only under the

criteria set forth in subsection (3) (c) of this section, may retire only under paragraph (a) of this subsection. Any person who fails to make the election provided for in this subsection prior to retirement shall receive retirement compensation under the provisions of paragraph (a) of this subsection.

- (a) (i) On or after July 1, 2000, any person who has served or who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may leave office or retire and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which he served payable in monthly installments on the first day of each month.
- (ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this paragraph applicable to justices or judges who first assumed such office on or after July 1, 2012.
- (iii) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation from the highest office in which such person served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section 59-1355, Idaho Code.
- (iv) The percentage applicable to all retiring justices and judges shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, but in any event the total percentage shall not be greater than seventy-five percent (75%) of the current annual compensation of the highest office in which he served, payable in monthly installments on the first day of each month.
- (b) (i) On or after July 1, 2000, any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may retire from office and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which he served payable in monthly installments on the first day of each month.
- (ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this paragraph applicable to justices or judges who first assumed such office on or after July 1, 2012.
- (iii) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1,

2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation of the highest office in which such person served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section 59-1355, Idaho Code.

(iv) The percentage applicable to all retiring justices and judges shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, plus two and one-half percent (2 1/2%) multiplied by five (5) years senior judge service but in any event the total percentage shall not be greater than seventy-five percent (75%) of the current annual compensation of the highest office in which he served, payable in monthly installments on the first day of each month.

(c) (i) A justice or judge electing to retire under paragraph (b) of this subsection and who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for thirty-five (35) days per year for a period of five (5) years.

(ii) A justice or judge electing to retire under paragraph (b) of this subsection who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for sixty (60) days per year for a period of five (5) years.

(iii) A justice or judge who serves more than thirty-five (35) the required number of days per year may carry over the additional days to fulfill the senior judge service obligation in future years.

The terms and conditions of such senior judge service shall be as provided under section 1-2005, Idaho Code.

(d) Upon certification from the chief justice that any justice or judge who retired under paragraph (b) of this subsection has failed to perform the senior judge services required under paragraph (c) of this subsection, and has not been relieved of the obligations to perform those services in the manner provided by this subsection, the judges' retirement fund shall recalculate the retirement compensation benefits of the non-complying justice or judge under paragraph (a) of this subsection, and the noncomplying justice or judge shall thereafter receive only the recalculated amount.

(e) A justice or judge may be relieved of the senior judge service obligation imposed by this subsection if he fails for good cause to complete the obligation. A retired justice or judge who is relieved of the obligation to serve as a senior judge shall continue to receive the retirement allowance provided under paragraph (b) of this subsection.

(f) "Good cause" includes, but is not limited to:

(i) Physical or mental incapacitation of a justice or judge that prevents the justice or judge from discharging the duties of judicial office;

(ii) Failure of the supreme court to assign a senior judge to the requisite amount of senior judge service, whether because of insufficient need for senior judges, a determination by the supreme court that the skills of a senior judge do not match the needs of the courts, clerical mistake or otherwise; or

(iii) Death of a senior judge.

(g) "Good cause" does not include:

(i) A senior judge's refusal, without good cause, to accept senior judge assignments sufficient to meet the required amount; or
(ii) A senior judge's affirmative voluntary act that makes him unqualified to serve as a judge of this state including, but not limited to, failure to maintain a residence within the state, commencing the practice of law other than as a mediator, arbitrator or similar alternative dispute resolution function, acceptance of a position in another branch of state government or political subdivision, or the acceptance of a position in the government of the United States or of another state or nation.

(h) The supreme court may make rules for the implementation of this subsection.

(3) On or after July 1, 2000, each person who has served but is not receiving benefits or who is now serving or who shall hereafter serve who shall leave office or retire as justice of the supreme court, judge of the court of appeals, or district judge of a district court in this state shall be eligible to receive an annual retirement compensation when such person shall meet one (1) of the following eligibility criteria:

(a) Attaining the age of sixty-five (65) years and having a minimum service of four (4) years;

(b) Attaining the age of sixty (60) years and having a minimum service of ten (10) years;

(c) Attaining the age of fifty-five (55) years and having a minimum service of fifteen (15) years; or

(d) At any age after twenty (20) years of service.

(4) (a) On or after July 1, 2000, each justice or judge who is now serving or who shall hereafter be appointed or elected and who shall retire by reason of disability preventing him from further performance of the duties of his office, after a service in any or all of said courts of four (4) years or more, shall, upon retirement, be entitled to receive and to have paid to him until death an annual retirement compensation payable in monthly installments on the first day of each month.

(b) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this subsection applicable to justices or judges who first assumed such office on or after July 1, 2012.

(c) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation from the highest office in which such person has served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section 59-1355, Idaho Code.

(d) The percentage applicable to all justices and judges who retire by reason of disability shall be equal to five percent (5%) of the current annual compensation of the highest office in which he served, multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service, and equal to plus two and one-half percent (2 1/2%) of the current annual compensation of the highest office in which he served, multiplied by the remaining number of years served as either justice or judge or both, but such amount of annual retirement compensation percentage shall not exceed seventy-five percent (75%) of the current annual compensation of the highest office

~~in which he served, payable in monthly installments on the first day of each month.~~

(5) All retirement compensation shall be paid out of the judges' retirement fund, provided however, that a justice or judge who has served less than four (4) years shall be entitled to have refunded to him all contributions made by him to the judges' retirement fund, with six and one-half percent (6 1/2%) interest computed annually but shall not be entitled to any other compensation from the fund.

(6) A person who has retired from the office of supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, or any other person receiving benefits as of July 1, 2012, may make an irrevocable election no later than August 1, 2012, to thereafter receive an annual retirement compensation or allowance equal to the amount of the annual retirement compensation or allowance such person was receiving as of July 1, 2012, and to have such compensation or allowance thereafter adjusted annually by the postretirement allowance adjustment established pursuant to section 59-1355, Idaho Code.

(7) Notwithstanding any other provision of this section, any person who makes an election to remain in the public employee retirement system of Idaho as provided in section 1-2011, Idaho Code, shall not participate in the judges' retirement fund established in this chapter, but shall continue to participate in the public employee retirement system of Idaho and be governed under the provisions of that system, except as provided in section 1-2005, Idaho Code.

SECTION 2. That Section 1-2001b, Idaho Code, be, and the same is hereby amended to read as follows:

1-2001b. CONVERSION OF RETIREMENT COMPENSATION INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The retirement compensation of a justice or judge who, at the time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such retirement compensation to which the justice or judge would otherwise be entitled under section 1-2001, Idaho Code, including the value of the spousal benefit provided by section 1-2009, Idaho Code, provided the spouse is the contingent annuitant. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other retirement compensation and benefits under this chapter, except the death benefit provided by section 1-2010, Idaho Code.

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a justice or judge, upon notification to the supreme court retirement board, the justice or judge's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section 1-2001, Idaho Code.

(3) Application for any optional retirement allowance shall be in writing, duly executed and filed with the supreme court retirement board. Such application shall contain all information required by the supreme court retirement board, including such proofs of age as are deemed necessary by the supreme court retirement board.

(4) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the supreme

~~court retirement board~~ no later than five (5) business days after the receipt of the first retirement allowance.

(5) Not later than one (1) year after the marriage of a retired justice or judge, the justice or judge may elect option 1 or 2 to become effective one (1) year after the date of such election, provided the justice or judge's spouse is named as a contingent annuitant, and either:

- (a) The justice or judge was not married at the time of retirement; or
- (b) The justice or judge earlier elected option 1 or 2, having named the justice or judge's spouse as contingent annuitant, and said spouse has died.

(6) Each justice or judge receiving retirement compensation on July 1, 2000, shall have a one-time irrevocable election to name a spouse as a contingent annuitant under subsection (1) (a) of this section.

SECTION 3. That Section 1-2002, Idaho Code, be, and the same is hereby amended to read as follows:

1-2002. JUDGES' RETIREMENT FUND. For the purpose of paying such retirement compensation, there is hereby created in the office of the treasurer of the state of Idaho a fund to be known as the "Judges' Retirement Fund," which shall consist of all moneys appropriated from the general fund, and all moneys received from special fees to be paid by parties to civil actions and proceedings, other than criminal, commenced in or appealed to the several courts of the state, together with all contributions out of the salaries and compensation of justices and judges, and interest received from investment, and reinvestment, of moneys of the judges' retirement fund, all as hereinafter provided.

All sums of money so accrued and accruing to the judges' retirement fund, less an amount deemed reasonable and necessary by the administrative director of the courts to pay for necessary actuarial studies to assist in administering the judges' retirement fund, are hereby appropriated to the payment of the annual retirement compensation of such retired justices and judges, and to payment of the allowances to surviving spouses.

The supreme court shall submit an annual report for each fiscal year on the status and condition of the judges' retirement fund to the chairman of the judiciary and rules committee of the senate, to the chairman of the judiciary, rules and administration committee of the house and to the chairmen of the joint finance-appropriations committee. Such report shall include a fiscal year end actuarial evaluation of the judges' retirement fund and shall include a specific report on any costs or savings arising from the retirement of persons under the provisions of subsection (2) (b) of section 1-2001, Idaho Code.

SECTION 4. That Section 1-2002, Idaho Code, be, and the same is hereby amended to read as follows:

1-2002. JUDGES' RETIREMENT FUND -- POWERS AND DUTIES OF THE RETIREMENT BOARD -- INDEMNIFICATION. (1) For the purpose of paying such retirement compensation, there is hereby created in the office of the treasurer of the state of Idaho a fund to be known as the "Judges' Retirement Fund," which shall be separate and apart from all public moneys or funds of this state, which shall be maintained in trust exclusively for the purpose of the provisions of this chapter, and which shall consist of all moneys appropriated from the general fund, and all moneys received from special fees to be paid by parties to civil actions and proceedings, other than criminal, commenced in or appealed to the several courts of the state, together with all contributions out of the salaries and compensation of justices and judges, and interest received from investment, and reinvestment, of moneys of the judges'

retirement fund, all as hereinafter provided. The retirement board shall serve as trustee of the trust.

(2) The members of the retirement board, public employee retirement system staff and mortgage and investment committee members shall be provided a defense and indemnified, and the retirement board may determine to provide a defense and indemnity, or refuse a defense and disavow and refuse to pay any judgment, to the same extent as provided in section 59-1305(1), Idaho Code.

(3) All sums of money so accrued and accruing to the judges' retirement fund, less an amount deemed reasonable and necessary by the administrative director of the courts retirement board to pay for necessary actuarial studies to assist in administering administrative expenses of the judges' retirement fund, are hereby appropriated to the payment of the annual retirement compensation of such retired justices and judges, and to payment of the allowances to surviving spouses.

(4) The retirement board shall submit an annual report for each fiscal year on the status and condition of the judges' retirement fund to the supreme court, to the chairman of the judiciary and rules committee of the senate, to the chairman of the judiciary, rules and administration committee of the house and to the chairmen of the joint finance-appropriations committee. Such report shall include a fiscal year end actuarial evaluation of the judges' retirement fund and shall include a specific report on any costs or savings arising from the retirement of persons under the provisions of subsection (2) (b) of section 1-2001, Idaho Code. The retirement board shall consult with the administrative director of the courts concerning any prospective changes or amendments to statutes and rules relating to the judges' retirement fund.

SECTION 5. That Section 1-2003, Idaho Code, be, and the same is hereby amended to read as follows:

1-2003. ADDITIONAL FEES IN CIVIL ACTIONS AND APPEALS. (a) In addition to the fees and charges to be collected by the clerks of the district courts of the state and by other persons authorized by rule or administrative order of the Ssupreme Court as now or hereafter provided by law, such clerks and authorized persons are directed to charge and collect the additional sum of eighteen twenty-six dollars (\$1826.00) for filing a civil case or proceeding of any type in the district court or magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, conservatorships of the person or of the estate or both and guardianships of the person or of the estate or both, except that no fee shall be charged or collected for filing a proceeding under the Ssummary Administration of procedure for Ssmall Estates Act, part 12, chapter 3, title 15, Idaho Code. The additional sum of eighteen twenty-six dollars (\$1826.00) shall also be collected from any party, except the plaintiff, making an appearance in any civil action in the district court, but such eighteen twenty-six dollars (\$1826.00) fee shall not be collected from the person making an appearance in civil actions filed in the small claims departments of the district court.

(b) The sum of eighteen twenty-six dollars (\$1826.00) shall also be collected:

- (1) ~~From~~ an intervenor in an action;
- (2) ~~From~~ a party who files a third party claim;
- (3) ~~From~~ a party who files a cross claim;
- (4) ~~From~~ a party appealing from the magistrate's division of the district court to the district court;
- (5) ~~From~~ a party appealing the decision of any commission, board or body to the district court.

(c) The clerk of the Ssupreme Court is authorized and directed to charge and collect, in addition to the fees now prescribed by law and as

a part of the cost of filing the transcript on appeal in any civil case or proceeding, other than criminal, appealed to the Ssupreme Court, the additional sum of ~~eighteen~~ twenty-six dollars (\$~~18~~26.00); for filing a petition for rehearing, the additional sum of ~~ten~~ eighteen dollars (\$~~10~~8.00); for filing an application for any writ for which a fee is now prescribed, the additional sum of ~~ten~~ eighteen dollars (\$~~10~~8.00); for filing appeals from the industrial accident ~~board~~ commission, the additional sum of five thirteen dollars (\$513.00).

(d) The clerks of the district courts, persons authorized by rule or administrative order of the Ssupreme Court and the clerk of the Ssupreme Court are directed and required to remit all additional charges and fees authorized by this section and collected during a calendar month, to the state treasurer within five (5) days after the end of the month in which such fees were collected. Prior to the effective date of section 1-2004A, Idaho Code, the state treasurer shall place all such sums in the judges' retirement fund. On and after the effective date of section 1-2004A, Idaho Code, the state treasurer shall place all such sums in the state general fund.

SECTION 6. That Section 1-2004, Idaho Code, be, and the same is hereby amended to read as follows:

1-2004. DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES -- CONTRIBUTIONS TO FUND. (1) The state controller shall deduct from the monthly compensation of each justice and judge now holding office, and from the monthly compensation of each person who shall thereafter assume by election or appointment the office of a justice of the Ssupreme Court, a judge of the court of appeals or a judge of a district court, an amount equal to ~~six per cent (6%)~~ the following percentages of his monthly compensation, and shall issue to such justice or judge a salary warrant in such reduced amount, and shall pay the withheld sums into the judges' retirement fund; provided, however, that after twenty (20) years of service no deductions shall be taken from a judge's compensation for payment to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, seven and sixty-nine hundredths percent (7.69%).

(b) On and after July 1, 2013, and prior to the date on which section 1-2004B, Idaho Code, shall be in full force and effect, nine percent (9%).

(c) On and after the date on which section 1-2004B, Idaho Code, shall be in full force and effect, nine percent (9%) or such other percentage as may be determined pursuant to section 1-2004B, Idaho Code.

(2) Between the first and twentieth day of each month, the Ssupreme Court shall, from appropriations made for that purpose as part of the employer's contribution, remit to the judges' retirement fund an amount equal to ~~seven per cent (7%)~~ the following percentages of salaries paid during the previous month to justices and judges who are making contributions to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, eight and ninety-seven hundredths percent (8.97%).

(b) On and after July 1, 2013, and prior to the date on which section 1-2004A, Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%).

(c) On and after the date on which section 1-2004A, Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%) or such other percentage as may be determined pursuant to section 1-2004A, Idaho Code.

SECTION 7. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2004A, Idaho Code, and to read as follows:

1-2004A. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES -- AMORTIZATION. (1) The amount of the employer contributions shall consist of the sum of a percentage of the salaries of active members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the retirement board on the basis of assets and liabilities as shown by the annual actuarial valuation, and such rates shall become effective no later than July 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the retirement board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new justice or judge entering the system, to provide for the payment of all prospective benefits in respect to such justice or judge which are not provided by the justice's or judge's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (5) of this section, unless a one (1) year grace period has been made effective by the retirement board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) Each of the following terms used in this chapter shall have the following meanings:

(a) "Effective date" means the date the rates of contributions based on the valuation become effective pursuant to subsection (1) of this section.

(b) "End date" means the date twenty-five (25) years after the valuation date.

(c) "Projected salaries" means the sum of the annual salaries of all justices and judges.

(d) "Scheduled amortization amount" means the actuarial present value of future contributions payable as amortization payment from the valuation date until the effective date.

(e) "Unfunded actuarial liability" means the excess of the actuarial present value of (i) over the sum of the actuarial present values of (ii), (iii) and (iv) as follows, all determined by the valuation as of the valuation date:

(i) All future benefits payable under this chapter;

(ii) The assets then held by the funding agent for the payment of benefits under this chapter;

(iii) The future normal costs payable in respect of all then active justices and judges;

(iv) The future contributions payable under section 1-2004, Idaho Code, by all current active justices and judges;

(f) "Valuation" means the most recent annual actuarial valuation.

(g) "Valuation date" means the date of such valuation.

(5) The minimum amortization payment rate shall be that percentage, calculated as of the valuation date, of the then actuarial present value of the projected salaries from the effective date to the end date which is equivalent to the excess of the unfunded actuarial liability over the scheduled amortization amount.

SECTION 8. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2004B, Idaho Code, and to read as follows:

1-2004B. EMPLOYEE CONTRIBUTIONS. The contribution for a justice, judge of the court of appeals or district judge shall be eighteen and five-tenths percent (18.5%) of the employer contribution rate determined pursuant to section 1-2004A, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary. The retirement board is specifically authorized to certify to the state controller the necessary adjustments in the rate of member contributions.

SECTION 9. That Section 1-2008, Idaho Code, be, and the same is hereby amended to read as follows:

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. (1) ~~The endowment fund investment retirement board established in section 57-718, Idaho Code, shall at the direction of the supreme court select and contract with investment managers registered with the securities and exchange commission to manage the investment of the judges' retirement fund. The investment managers shall, subject to the direction of the board, exert control over the funds as though the investment managers were the owners thereof and are hereby authorized to invest the judges' retirement fund as hereinafter provided.~~

~~(a) Subject to the approval of the supreme court, the investment The retirement board shall formulate an investment policy governing the investment of judges' retirement funds. The policy shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such policy shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this chapter. Provided further, the supreme court may, in its sole discretion, limit any of the investments permitted by the investment policy.~~

~~(b) In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and securities of the fund, investment managers shall also be governed by the prudent man investment act, sections 68-501 through 68-506, Idaho Code; provided, however, that the supreme court retirement board may in its sole discretion, limit the types, kinds and amounts of such investments.~~

~~(c) The retirement board shall adopt the actuarial tables and assumptions in use by the judges' retirement fund and may change the same in its sole discretion at any time.~~

~~(2) The investment board shall be responsible for assuring that the investment managers comply with this section.~~

~~(3) The investment retirement board, subject to the approval of the supreme court, is hereby authorized to select and contract with a bank or trust company authorized to do business in the state of Idaho, to act as custodian of the judges' retirement fund, who shall hold all securities and moneys of the judges' retirement fund and shall collect the principal, dividends and interest thereof when due and pay the same into the judges' retirement fund.~~

~~(4) The state treasurer shall pay all warrants drawn on the judges' retirement fund for making such investments when issued pursuant to vouchers signed by the chief justice of the supreme court approved by the retirement board.~~

SECTION 10. That Section 1-2009, Idaho Code, be, and the same is hereby amended to read as follows:

1-2009. BENEFIT TO SURVIVING SPOUSE OF JUSTICE OR JUDGE. The legislature hereby finds and declares that the payment of allowances to the sur-

viving spouses of justices of the supreme court, judges of the court of appeals and district judges of the district court of the state of Idaho, serves the public purpose of promoting the public welfare by encouraging experienced jurists to continue their service and that their continued service and increased efficiency will be secured in the expectation that the legislature will fairly provide for their surviving spouses, and that such continued service and increased efficiency of such jurists, secure in this knowledge, will be of substantial benefit to the state.

The surviving spouse, of any justice or judge entitled to benefits under this chapter who dies on or after July 1, 1965, shall receive an allowance from the judges' retirement fund, payable monthly, and as hereinafter provided.

(a) In the case of a justice or judge receiving retirement compensation at the time of death, allowance to his surviving spouse shall commence immediately and be payable to such spouse from such fund in an amount equal to fifty percent (50%) of the retirement compensation to which such justice or judge would be entitled under section 1-2001(2), Idaho Code; provided, that the allowance payable to the surviving spouse of a justice or judge who first assumed the office of supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall be thirty percent (30%) of the retirement compensation to which such justice or judge would be entitled.

(b) In the case of a justice or judge who has service as a justice of the supreme court, judge of the court of appeals or district judge of four (4) years or more and is not receiving retirement compensation at the time of death, commencing immediately, the surviving spouse shall be paid an allowance from such fund in the amount of fifty percent (50%) of the retirement compensation to which the justice or judge would have been entitled under section 1-2001(2) (a), Idaho Code, as if the justice or judge was eligible to retire and had retired immediately before his death; provided, that the allowance payable to the surviving spouse of a justice or judge who first assumed the office of supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall be thirty percent (30%) of the retirement compensation to which such justice or judge would have been entitled, as if the justice or judge was eligible to retire and had retired immediately before his death.

(c) The allowance shall be paid until the death of the surviving spouse.

(d) The surviving spouse of a justice or judge who is not receiving benefits from the judges' retirement fund at the time of the justice's or judge's death may elect to take an optional retirement allowance as a surviving annuitant under option 1 of section 1-2001b(1) (a), Idaho Code. Such optional retirement allowance shall be calculated as if the justice or judge was eligible to retire and had retired immediately before his death.

SECTION 11. That Section 1-2010, Idaho Code, be, and the same is hereby amended to read as follows:

1-2010. DEATH BENEFIT. (1) The death benefit of a deceased justice or judge is the excess, if any, of the justice's or judge's accumulated contributions to the judges' retirement fund, including accrued interest at the rate provided in section 1-2001(5), Idaho Code, over the aggregate of all retirement compensation payments and allowances ever made to the justice, judge, spouse or annuitant from the judges' retirement fund.

(2) The death benefit is payable, and all other retirement compensation benefits and allowances shall cease, upon the death of the justice, judge, spouse or annuitant receiving a retirement compensation or allowance.

(3) The death benefit shall be paid to the beneficiary named by the justice or judge in a written designation of beneficiary on file with the ~~supreme court retirement board~~ if the beneficiary is surviving at the time the death benefit is payable; otherwise the death benefit shall be paid to

the estate of the deceased justice or judge for distribution in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

SECTION 12. That Section 1-2012, Idaho Code, be, and the same is hereby amended to read as follows:

1-2012. RULES AND ADMINISTRATIVE POLICIES. Subject to the other provisions of this chapter, the ~~supreme court~~ retirement board shall have the power and authority to adopt, amend and rescind such rules and administrative policies as may be necessary for the proper administration of this chapter.

SECTION 13. The provisions of Section 3 of this act shall be null, void and of no force and effect on and after the first July 1 occurring at least three months after the Retirement Board has informed the Secretary of State that the Supreme Court has received a determination letter from the Internal Revenue Service ruling that the terms of the judges' retirement plan meet the applicable requirements of a qualified plan under U.S.C. Section 401(a) and that any changes to the judges' retirement plan required by the Internal Revenue Service or the determination letter have been made, and Sections 2, 4, 7, 8, 9, 11 and 12 of this act shall be in full force and effect on and after the first July 1 occurring at least three months after the Retirement Board has informed the Secretary of State that the Supreme Court has received a determination letter from the Internal Revenue Service ruling that the terms of the judges' retirement plan meet the applicable requirements of a qualified plan under U.S.C. Section 401(a) and that any changes to the judges' retirement plan required by the Internal Revenue Service or the determination letter have been made.

Approved April 5, 2012.

CHAPTER 331
(H.B. No. 672)

AN ACT

RELATING TO FISCAL MATTERS OF SCHOOL DISTRICTS; ESTABLISHING PROVISIONS RELATING TO CERTAIN MAINTENANCE MATCH MONEYS FOR THE MAINTENANCE AND REPAIR OF CERTAIN STUDENT-OCCUPIED BUILDINGS.

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

SECTION 1. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the period July 1, 2012, through June 30, 2013, only, the current fiscal year's amount of local maintenance match moneys normally required to be allocated for the maintenance and repair of student-occupied buildings may be spent on other one-time, nonpersonnel costs, at the discretion of the school district. Such amount shall be determined by the State Department of Education as follows:

(1) Subtract from the local maintenance match requirement all plant facility levy funds levied for tax year 2012.

(2) Subtract from the balance of any funds remaining after the subtraction provided for in subsection (1) of this section, any additional funds necessary to fully remediate all recommendations and code violations identified in the most recent inspection of each student-occupied building conducted by the Division of Building Safety, excluding any recommendations

for which the least expensive remediation solution is the replacement of the building.

School districts shall furnish information pursuant to the provisions of this section, as may be required by the State Department of Education.

Approved April 5, 2012.

CHAPTER 332
(H.B. No. 685)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2013; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND FOR FISCAL YEAR 2013; AND PROVIDING GUIDANCE FOR NON-JUDICIAL EMPLOYEE COMPENSATION AND BENEFITS.

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 according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPREME COURT:					
FROM:					
General					
Fund	\$3,505,600	\$331,900		\$186,600	\$4,024,100
Miscellaneous Revenue					
Fund		318,500			318,500
Federal Grant					
Fund	<u>492,300</u>	<u>1,239,500</u>		<u>0</u>	<u>1,731,800</u>
TOTAL	\$3,997,900	\$1,889,900		\$186,600	\$6,074,400
II. LAW LIBRARY:					
FROM:					
General					
Fund	\$115,800	\$222,800			\$338,600
III. DISTRICT COURTS:					
FROM:					
General					
Fund	\$8,976,300	\$449,900			\$9,426,200
ISTARS Technology					
Fund	886,100	2,812,000	\$1,156,200		4,854,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Drug Court, Mental Health and Family Court Services					
Fund	<u>1,824,000</u>	<u>2,857,300</u>	<u>0</u>		<u>4,681,300</u>
TOTAL	\$11,686,400	\$6,119,200	\$1,156,200		\$18,961,800
IV. MAGISTRATES DIVISION:					
FROM:					
General					
Fund	\$12,206,900	\$340,300			\$12,547,200
Drug Court, Mental Health and Family Court Services					
Fund	412,000	1,727,600			2,139,600
Guardianship Pilot Project					
Fund	2,000	276,400			278,400
Senior Magistrate Judges					
Fund		510,000			510,000
Federal Grant					
Fund	<u>0</u>	<u>110,000</u>			<u>110,000</u>
TOTAL	\$12,620,900	\$2,964,300			\$15,585,200
V. JUDICIAL COUNCIL:					
FROM:					
General					
Fund	\$1,800	\$103,600			\$105,400
VI. COURT OF APPEALS:					
FROM:					
General					
Fund	\$1,521,000	\$54,000			\$1,575,000
VII. GUARDIAN AD LITEM ACCOUNT:					
FROM:					
Guardian Ad Litem					
Fund	\$16,700	\$5,000		\$585,000	\$606,700
VIII. WATER ADJUDICATION:					
FROM:					
Drug Court, Mental Health and Family Court Services					
Fund	\$763,200	\$121,000			\$884,200
IX. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:					
FROM:					
General					
Fund				\$1,594,800	\$1,594,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Substance Abuse Treatment					
Fund				<u>3,232,900</u>	<u>3,232,900</u>
TOTAL				\$4,827,700	\$4,827,700
GRAND TOTAL	\$30,723,700	\$11,479,800	\$1,156,200	\$5,599,300	\$48,959,000

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Supreme Court is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$601,700 from the General Fund to the Guardian Ad Litem Fund on July 1, 2012, or as soon thereafter as is practicable.

SECTION 4. NON-JUDICIAL EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved April 5, 2012.

CHAPTER 333
(H.B. No. 687)

AN ACT

RELATING TO THE UNCLAIMED PROPERTY PROGRAM; AMENDING SECTION 63-3077E, IDAHO CODE, TO AUTHORIZE THE RELEASE OF TAXPAYER ADDRESSES AND TAXPAYER IDENTIFYING NUMBERS FROM THE STATE TAX COMMISSION TO THE UNCLAIMED PROPERTY PROGRAM FOR INTERNAL USE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3077E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077E. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH THE STATE TREASURER. The state tax commission and the state treasurer may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state or who may be the owners of unclaimed property reported to the state treasurer. Such information shall be confidential to the recipient and may be used only for purposes of administering the provisions of the unclaimed property act in chapter 5, title 14, Idaho Code. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission may include the following:

- (1) Names ~~of~~ and ~~current~~ addresses of businesses within this state.
- (2) The names and ~~current~~ addresses of individuals or entities identified as owners or potential owners of unclaimed property in the custody of the state treasurer.
- (3) Taxpayer identifying numbers.

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, 2012.

CHAPTER 334
(H.B. No. 691)

AN ACT

RELATING TO SPECIAL USE PERMITS, CONDITIONS AND PROCEDURES; AMENDING SECTION 67-6512, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICE; AMENDING SECTION 67-6512, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO EXCEPTIONS OR WAIVERS OF CERTAIN STANDARDS; DECLARING AN EMERGENCY, PROVIDING APPLICATION AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-6512, Idaho Code, be, and the same is hereby amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of

applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Denial of a special use permit or approval of a special use permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with requirements established thereby.

(b) Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Each local government is encouraged to post such notice on its official websites, if one is maintained. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notwithstanding jurisdictional boundaries, notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission, provided that in all cases notice shall be provided individually by mail to property owners or purchasers of record within the land being considered and within three hundred (300) feet of the external boundaries of the land being considered and provided further that where a special use permit is requested by reason of height allowance that notice shall be provided individually by mail to property owners or purchasers of record within no less than three (3) times the distance of the height of the allowed height of a structure when more than one hundred (100) feet and within no less than one (1) mile when the peak height of a structure in an unincorporated area is four hundred (400) feet or more and, when four hundred (400) feet or more, the structure's proposed location and height shall be stated in the notice. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;

(8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

SECTION 2. That Section 67-6512, Idaho Code, be, and the same is hereby amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Denial of a special use permit or approval of a special use permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with requirements established thereby.

(b) Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Each local government is encouraged to post such notice on its official websites, if one is maintained. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notwithstanding jurisdictional boundaries, notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;

- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

(f) In addition to other processes permitted by this chapter, exceptions or waivers of standards, other than use, inclusive of the subject matter addressed by section 67-6516, Idaho Code, in a zoning ordinance may be permitted through issuance of a special use permit or by administrative process specified by ordinance, subject to such conditions as may be imposed pursuant to a local ordinance drafted to implement subsection (d) of this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after passage and approval, and shall apply to all permits and approvals granted prior to the effective date hereof. In addition, special use permits that have been approved and for which all opportunities to appeal pursuant to Title 67, Chapter 65, Idaho Code, have expired as of the effective date hereof, are declared to be valid and of continuing force and effect. Provided however, that claims for damages including diminishment of value shall not be extinguished or otherwise affected by the application of the provisions of this section. Section 1 of this act shall be in full force and effect on and after July 1, 2012.

Approved April 5, 2012.

CHAPTER 335
(H.B. No. 695)

AN ACT

RELATING TO THE LEGISLATURE; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-451A, IDAHO CODE, TO PROVIDE FOR THE LEGISLATIVE LEGAL DEFENSE FUND, TO PROVIDE FOR MONEYS IN THE FUND, TO PROVIDE THAT MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED, TO PROVIDE FOR EXEMPTIONS AND TO PROVIDE FOR EXPENDITURES; AND TO PROVIDE FOR A TRANSFER FROM THE GENERAL FUND TO THE LEGISLATIVE DEFENSE FUND AND TO PROVIDE THAT OF THE AMOUNT TRANSFERRED, FIFTY PERCENT SHALL BE AVAILABLE TO THE SENATE AND FIFTY PERCENT TO THE HOUSE OF REPRESENTATIVES.

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

SECTION 1. That Chapter 4, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-451A, Idaho Code, and to read as follows:

67-451A. LEGISLATIVE LEGAL DEFENSE FUND CREATED. There is hereby created in the state treasury the legislative legal defense fund. The legislative legal defense fund shall consist of such moneys as are placed into

it by appropriations and shall be continuously appropriated to the senate and house of representatives. The legislative legal defense fund shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and from the provisions of chapter 36, title 67, Idaho Code. The president pro tempore of the senate and the speaker of the house of representatives are hereby authorized to make expenditures out of the fund for any necessary legal expenses of the legislature.

SECTION 2. There is hereby appropriated, and the State Controller shall transfer, \$200,000 from the General Fund to the Legislative Legal Defense Fund, on July 1, 2012, or as soon thereafter as is practicable. Of the amount transferred, fifty percent (50%) shall be available to the Senate and fifty percent (50%) to the House of Representatives.

Approved April 5, 2012.

CHAPTER 336
(H.B. No. 701)

AN ACT

RELATING TO THE JUDGES' RETIREMENT FUND; AND APPROPRIATING ADDITIONAL MON-
EYS TO THE SUPREME COURT FOR FISCAL YEAR 2013.

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

SECTION 1. In addition to the appropriation made in Section 1 of House Bill No. 685, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, and any other appropriation provided for by law, there is hereby appropriated \$116,400 from the General Fund to the Supreme Court for the period July 1, 2012, through June 30, 2013. The purpose of this appropriation is to cover the employer's contribution to the Judges' Retirement Fund that will increase from seven percent (7%) to eight and sixty-seven hundredths percent (8.67%) in fiscal year 2013.

Approved April 5, 2012.

CHAPTER 337
(H.B. No. 702)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF MONEYS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE DISASTER EMERGENCY FUND FOR FISCAL YEAR 2012; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PUBLIC EDUCATION STABILIZATION FUND FOR FISCAL YEAR 2012; APPROPRIATING AND TRANSFERRING EXCESS FISCAL YEAR 2012 YEAR-END MONEYS FROM THE GENERAL FUND TO THE BUDGET STABILIZATION FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature, at the end of fiscal year 2012, to transfer General Fund balances to the Budget Stabilization Fund in excess of the amounts necessary: (1) to provide funding to support communities in the event of declared disasters; (2) to provide a transfer to the Public Education Stabilization Fund for guaranteed funding

of salary-based apportionment in fiscal year 2014; (3) to provide for fiscal year 2013 appropriations that are more than projected revenues; and (4) to provide a beginning General Fund balance for fiscal year 2013 to support funding for deficiency warrants and supplemental appropriations to be considered during the First Regular Session of the Sixty-second Idaho Legislature.

SECTION 2. There is hereby appropriated and upon passage and approval of this act, the State Controller shall transfer \$2,000,000 from the General Fund to the Disaster Emergency Fund.

SECTION 3. There is hereby appropriated and upon passage and approval of this act, the State Controller shall transfer \$21,452,600 from the General Fund to the Public Education Stabilization Fund.

SECTION 4. There is hereby appropriated and the State Controller shall transfer any excess cash balance from the General Fund to the Budget Stabilization Fund upon the financial close of fiscal year 2012. When calculating any excess cash balance the State Controller shall provide for an ending balance of \$5,000,000 to be carried over into fiscal year 2013, plus an amount sufficient to cover General Fund appropriations in fiscal year 2013, that rely upon fiscal year 2012 year-end cash balances, encumbrances authorized by the Division of Financial Management, and any General Fund reappropriation authorized by the Legislature. The State Controller shall determine when the financial close of fiscal year 2012 is complete, and after consultation with the Division of Financial Management and the Legislative Services Office, shall notify the Governor and the Legislature of the amount transferred from the General Fund to the Budget Stabilization Fund.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 5, 2012.

CHAPTER 338
(H.B. No. 703)

AN ACT

RELATING TO THE NATIONAL MORTGAGE SETTLEMENT AGREEMENT; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE CONSUMER PROTECTION FUND FOR FISCAL YEARS 2012-13; APPROPRIATING ADDITIONAL MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEARS 2012-13; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR DISTRIBUTION TO THE IDAHO STATE BAR'S VOLUNTEER LEGAL PROGRAM FOR FISCAL YEARS 2012-13; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR DISTRIBUTION TO IDAHO LEGAL AID SERVICES FOR FISCAL YEARS 2012-13; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR DISTRIBUTION TO OTHER GOVERNMENTAL ENTITIES OR ORGANIZATIONS AS DETERMINED BY THE ATTORNEY GENERAL FOR FISCAL YEARS 2012-13; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR DISTRIBUTION TO THE COMMUNITY ACTION PARTNERSHIP ASSOCIATION OF IDAHO FOR FISCAL YEARS 2012-13; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated, and upon passage and approval of this act and the receipt of an estimated \$13,300,000 in settlement proceeds provided for in the March 12, 2012, National Mortgage Settlement

Agreement and remitted to the General Fund, the State Controller shall transfer \$500,000 from the General Fund to the Consumer Protection Fund as soon as practicable.

SECTION 2. In addition to any other appropriation provided for by law and subject to the provisions of Section 1 of this act, there is hereby appropriated to the Attorney General \$50,000 from the Consumer Protection Fund for the period July 1, 2011, through June 30, 2013. The purpose of this appropriation is to provide assistance to Idaho homeowners in understanding Idaho's new foreclosure laws, the national settlement's mortgage servicing standards and available modification programs.

SECTION 3. In addition to any other appropriation provided for by law and subject to the provisions of Section 1 of this act, there is hereby appropriated \$120,000 from the Consumer Protection Fund to the Attorney General for distribution to the Idaho State Bar's Volunteer Legal Program for the period July 1, 2011, through June 30, 2013. The purpose of this appropriation is to provide pro bono representation to Idaho homeowners facing foreclosure and to help homeowners better understand their legal rights and options under state and federal laws.

SECTION 4. In addition to any other appropriation provided for by law and subject to the provisions of Section 1 of this act, there is hereby appropriated \$120,000 from the Consumer Protection Fund to the Attorney General for distribution to Idaho Legal Aid Services for the period July 1, 2011, through June 30, 2013. The purpose of this appropriation is to help low-income families negotiate modifications, obtain deficiency waivers and generally assist them with making sound legal and financial decisions about their home loans.

SECTION 5. In addition to any other appropriation provided for by law and subject to the provisions of Section 1 of this act, there is hereby appropriated \$110,000 from the Consumer Protection Fund to the Attorney General for distribution to other governmental entities or organizations as determined by the Attorney General, for the period July 1, 2011, through June 30, 2013. The purpose of this appropriation is to provide mortgage delinquency and default resolution counseling to Idaho homeowners, as well as home buyer education and rental housing.

SECTION 6. In addition to any other appropriation provided for by law and subject to the provisions of Section 1 of this act, there is hereby appropriated \$100,000 from the Consumer Protection Fund to the Attorney General for distribution to the Community Action Partnership Association of Idaho for the period July 1, 2011, through June 30, 2013. The purpose of this appropriation is to assist homeowners' transition from foreclosure to rental, family, assisted-living, shelter or temporary housing.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and after the receipt of the settlement proceeds provided for in the March 12, 2012, National Mortgage Settlement Agreement. In the event that these funds are not received on or before June 30, 2012, this section of the act shall be null and void and have no force and effect.

Approved April 5, 2012.

CHAPTER 339
(H.B. No. 697)

AN ACT

RELATING TO COUNTIES AND PROPERTY TAX LEVIES; AMENDING CHAPTER 13, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1305A, IDAHO CODE, TO ESTABLISH PROVISIONS PROVIDING THAT CERTAIN TAXING DISTRICTS MAY CERTIFY A BUDGET REQUEST IN EXCESS OF CERTAIN LIMITATIONS FOR THE PURPOSE OF PAYING A FINAL JUDGMENT, TO PROVIDE FOR CERTAIN CONDITIONS, TO ESTABLISH PROVISIONS RELATING TO THE APPLICATION OF LAW AND THE METHOD OF PAYMENT, TO PROVIDE FOR RULES AND TO ESTABLISH PROVISIONS RELATING TO A LIMITATION; AMENDING CHAPTER 13, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1305B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN ELECTION; AMENDING SECTION 50-2908, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO LEVIES FOR PAYMENT OF CERTAIN JUDGMENTS, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-802, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO PROVIDE THAT THE AMOUNT OF PROPERTY TAX REVENUES TO FINANCE AN ANNUAL BUDGET DOES NOT INCLUDE REVENUE FROM LEVIES TO SATISFY CERTAIN JUDGMENTS AND REVENUE FROM CERTAIN OTHER LEVIES; AMENDING SECTION 63-803, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 63-811, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 31-1901, IDAHO CODE, TO PROVIDE THAT THE COUNTY MAY ALSO ISSUE BONDS FOR THE PURPOSE OF PAYING A CERTAIN JUDGMENT; REPEALING SECTION 50-2908, IDAHO CODE, RELATING TO DETERMINATION OF TAX LEVIES AND CREATION OF SPECIAL FUND; REPEALING SECTION 63-802, IDAHO CODE, RELATING TO LIMITATION ON BUDGET REQUESTS AND LIMITATION ON TAX CHARGES, REPEALING SECTION 63-803, IDAHO CODE, RELATING TO CERTIFICATION OF BUDGETS IN DOLLARS AND REPEALING SECTION 63-811, IDAHO CODE, RELATING TO COMPUTATION OF PROPERTY TAXES AND DUTIES OF COUNTY AUDITOR; REPEALING SECTION 31-1901, IDAHO CODE, RELATING TO COMMISSIONERS ISSUING FUNDING AND REFUNDING BONDS; AMENDING CHAPTER 29, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-2908, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DETERMINATION OF CERTAIN TAX LEVIES, TO ESTABLISH PROVISIONS RELATING TO EXCEPTIONS, TO ESTABLISH PROVISIONS RELATING TO THE ALLOCATION OF CERTAIN TAX REVENUES, TO ESTABLISH PROVISIONS RELATING TO THE CREATION OF A SPECIAL FUND, TO ESTABLISH PROVISIONS RELATING TO TAXING DISTRICTS IN WHICH A REVENUE ALLOCATION AREA IS LOCATED AND TO DEFINE A TERM; AMENDING CHAPTER 8, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-802, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO LIMITATIONS ON CERTAIN BUDGET REQUESTS, TO ESTABLISH PROVISIONS RELATING TO LIMITATIONS ON CERTAIN TAX CHARGES AND TO PROVIDE FOR EXCEPTIONS; AMENDING CHAPTER 8, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-803, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTIFICATION OF BUDGETS IN DOLLARS; AMENDING CHAPTER 8, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-811, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO COMPUTATION OF PROPERTY TAXES AND DUTIES OF COUNTY AUDITOR; AMENDING CHAPTER 19, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-1901, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN COMMISSIONERS WHO MAY ISSUE CERTAIN FUNDING AND REFUNDING BONDS; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION, PROVIDING A SUNSET DATE AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 13, 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 63-1305A, Idaho Code, and to read as follows:

63-1305A. PAYMENT OF JUDGMENT BY ORDER OF COURT. (1) Notwithstanding the provisions of section 6-928, Idaho Code, and except as provided for in section 63-1305, Idaho Code, a nonschool taxing district may certify a budget request for an amount of property tax revenues to finance an annual budget in excess of the limitations imposed by section 63-802, Idaho Code, for the purpose of paying a final judgment entered by a court of law, including interest, costs and award of attorney's fees, if any, provided that:

(a) The taxing district first budgets the maximum amount of property tax permitted pursuant to section 63-802, Idaho Code, including any available forgone amount; and

(b) All surplus funds available to the taxing district are used to pay the outstanding judgment; and

(c) The judgment was entered after December 1, 2010; and

(d) The judgment amount, including interest and award of attorney's fees, if any, exceeds one-third (1/3) of the property tax revenues used to finance the taxing district's highest annual budget in the preceding three (3) years; and

(e) The amount in excess of the limitations imposed by section 63-802, Idaho Code, authorized by this section does not increase the budget that would otherwise be applicable by more than the amount raised by a levy rate of one-tenths of one percent (0.1%).

(2) The provisions of subsection (1) of this section pertain regardless of whether the judgment is paid in cash, redeemable warrants, the proceeds of bonded indebtedness permitted as an ordinary and necessary expense or any combination of these methods of payment.

(3) The state tax commission may promulgate rules necessary to administer the provisions of this section.

(4) The levy permitted pursuant to subsection (1) of this section may be levied only until the judgment is paid in full.

SECTION 2. That Chapter 13, 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 63-1305B, Idaho Code, and to read as follows:

63-1305B. ELECTION -- AUTHORIZATION OF GOVERNING BODY. (1) No non-school taxing district shall exercise any powers provided pursuant to section 63-1305A, Idaho Code, unless a majority of qualified electors, voting in an election held in such nonschool taxing district, vote to approve the question of whether the governing body of such district may exercise the powers and authority provided for in section 63-1305A, Idaho Code.

(2) The election provided for in this section shall be held in accordance with the provisions of section 34-106, Idaho Code.

SECTION 3. That Section 50-2908, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Levies for refunds and credits pursuant to section 63-1305, Idaho Code, and any judgment pursuant to section 33-802(1), Idaho Code, certified after December 31, 2007;

(b) Levies for payment of judgments pursuant to section 63-1305A, Idaho Code;

(c) Levies permitted pursuant to section 63-802(3), Idaho Code, certified after December 31, 2007;

(ed) Levies for voter approved general obligation bonds of any taxing district and plant facility reserve fund levies passed after December 31, 2007;

(de) Levies set forth in paragraphs (1)(a) through (ed) of this subsection, first certified prior to December 31, 2007, when the property affected by said levies is included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or any taxing district after December 31, 2007; and

(ef) School levies for supplemental maintenance and operation pursuant to section 33-802(3) and (4), Idaho Code, approved after December 31, 2007.

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

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

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

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

(iii) All taxes levied by the taxing district to satisfy obligations specified in subsection (1)(a) through (ef) of this section.

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

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

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy other than the levy specified in subsection (1)(a) through (ef) of this section, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

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

SECTION 4. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsections (3) and (4) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(11), Idaho Code, by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section;

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code;

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed;

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district

from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies to satisfy judgments pursuant to section 63-1305A, Idaho Code, and revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 5. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport

authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (ef) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, except the exemption for personal property in section 63-602KK, Idaho Code, and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 6. That Section 63-811, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(4) Except as provided in subsection (1)(a) through (ef) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy.

(5) The county auditor, at the time of delivery to the county tax collector of the property roll, subsequent property roll, missed property roll or operating property roll with all property taxes computed, must subscribe an affidavit to such roll that he has to the best of his knowledge and ability

computed the proper amount of property taxes due, and recorded such orders of the board of equalization as have been made and has made no other changes.

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

SECTION 7. That Section 31-1901, Idaho Code, be, and the same is hereby amended to read as follows:

31-1901. COMMISSIONERS MAY ISSUE FUNDING AND REFUNDING BONDS. The board of county commissioners of any county in this state may issue negotiable coupon bonds of their county for the purpose of paying, redeeming, funding or refunding the outstanding indebtedness of the county, whether the indebtedness exists as a warrant indebtedness or bonded indebtedness. The county may also issue bonds for the purpose of paying a judgment meeting the criteria of section 63-1305A, Idaho Code. All such bonds shall be in the form and shall be issued, sold or exchanged and redeemed in accordance with the provisions of chapter 2 of title 57, known as the "Municipal Bond Law" of the state of Idaho, except where different provision is made herein. Provided, that the authority to fund warrant indebtedness shall extend only to the funding of warrant indebtedness existing as of the second Monday in January, 1933, and providing further that all taxes and other revenues which but for the funding of warrants would have been lawfully applicable to the redemption of the warrants so funded shall, as and when collected, be apportioned to and placed in the sinking fund for the payment of the interest and retirement of the principal of such bonds. Bonds issued for the purpose of funding warrants shall bear interest payable semiannually as the board of county commissioners may determine.

SECTION 8. That Section 50-2908, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Sections 63-802, 63-803 and 63-811, Idaho Code, be, and the same are hereby repealed.

SECTION 10. That Section 31-1901, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 29, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-2908, Idaho Code, and to read as follows:

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

(a) Levies for refunds and credits pursuant to section 63-1305, Idaho Code, and any judgment pursuant to section 33-802(1), Idaho Code, certified after December 31, 2007;

(b) Levies permitted pursuant to section 63-802(3), Idaho Code, certified after December 31, 2007;

(c) Levies for voter approved general obligation bonds of any taxing district and plant facility reserve fund levies passed after December 31, 2007;

(d) Levies set forth in paragraphs (1)(a) through (c) of this subsection, first certified prior to December 31, 2007, when the property affected by said levies is included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or any taxing district after December 31, 2007; and

(e) School levies for supplemental maintenance and operation pursuant to section 33-802(3) and (4), Idaho Code, approved after December 31, 2007.

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

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

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

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

(iii) All taxes levied by the taxing district to satisfy obligations specified in subsection (1)(a) through (e) of this section.

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

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

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy other than the levy specified in subsection (1)(a) through (e) of this section, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002 and 63-1313, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other

such similar term) shall mean market value for assessment purposes as defined in section 63-208, Idaho Code.

SECTION 12. That Chapter 8, 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 63-802, Idaho Code, and to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(11), Idaho Code, by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section;

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code;

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed;

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 13. That Chapter 8, 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 63-803, Idaho Code, and to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total

taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, except the exemption for personal property in section 63-602KK, Idaho Code, and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 14. That Chapter 8, 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 63-811, Idaho Code, and to read as follows:

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

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

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

(4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal

district, located within each taxing district which certifies a budget to be raised from a property tax levy.

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

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

SECTION 15. That Chapter 19, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-1901, Idaho Code, and to read as follows:

31-1901. COMMISSIONERS MAY ISSUE FUNDING AND REFUNDING BONDS. The board of county commissioners of any county in this state may issue negotiable coupon bonds of their county for the purpose of paying, redeeming, funding or refunding the outstanding indebtedness of the county, whether the indebtedness exists as a warrant indebtedness or bonded indebtedness. All such bonds shall be in the form and shall be issued, sold or exchanged and redeemed in accordance with the provisions of chapter 2 of title 57, known as the "Municipal Bond Law" of the state of Idaho, except where different provision is made herein. Provided, that the authority to fund warrant indebtedness shall extend only to the funding of warrant indebtedness existing as of the second Monday in January, 1933, and providing further that all taxes and other revenues which but for the funding of warrants would have been lawfully applicable to the redemption of the warrants so funded shall, as and when collected, be apportioned to and placed in the sinking fund for the payment of the interest and retirement of the principal of such bonds. Bonds issued for the purpose of funding warrants shall bear interest payable semiannually as the board of county commissioners may determine.

SECTION 16. 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 17. 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, 2012. The provisions of Sections 1 and 2 of this act shall be null, void and of no force and effect on and after July 1, 2017. The provisions of Sections 8, 9 and 10 of this act shall be in full force and effect on and after July 1, 2017. The provisions of Sections 11, 12, 13, 14 and 15 shall be in full force and effect on and after July 1, 2017.

Approved April 5, 2012.

CHAPTER 340
(H.B. No. 603)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE A CERTAIN TABLE RELATING TO THE COMPUTATION OF ELEMENTARY SUPPORT UNITS AND TO PROVIDE THAT CERTAIN CALCULATIONS SHALL BE CARRIED OUT TO THE NEAREST HUNDREDTH; AMENDING SECTION 33-1003, IDAHO CODE, TO REMOVE CERTAIN PROVISIONS RELATING TO A DECREASE IN AVERAGE DAILY ATTENDANCE AND TO REVISE CERTAIN PROVISIONS RELATING TO A DECREASE IN AVERAGE DAILY ATTENDANCE; AND AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE THAT CERTAIN PAYMENTS MADE TO THE SCHOOL DISTRICTS MAY BE BASED UPON CERTAIN PAYMENTS FOR THE PRECEDING SCHOOL YEAR, TO PROVIDE THAT EACH SCHOOL DISTRICT MAY RECEIVE CERTAIN PAYMENTS IN A CERTAIN RATIO AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(i) For public school technology as provided in section 33-1022, Idaho Code;

(j) For employee severance payments as provided in section 33-521, Idaho Code;

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

(l) For dual credit courses as provided in section 33-1626, Idaho Code;

(m) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(n) For costs associated with mobile computing devices and teacher training as provided in section 33-1627, Idaho Code;

- (o) For certificated employee severance payment reimbursement as provided in section 33-515B, Idaho Code;
- (p) For pay for performance as provided in section 33-1004I, Idaho Code;
- (q) 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
- (r) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

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

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily		
Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
.01 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily		Minimum Units
Attendance	Attendance Divisor	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 71.09 ADA...	15.....	4.0

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
33.6 to 51.69 ADA...	13	2.8
16.6 to 33.59 ADA...	12	1.4
.01 to 16.59 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- 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
.01 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

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

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

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary

to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

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

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

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

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

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

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

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

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

SECTION 2. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. ~~Decrease in Average Daily Attendance. --- From the effective date of this act through June 30, 2011, any school district that has a decrease in~~

~~total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.~~

~~(1) Decrease in Average Daily Attendance for 2011-2012 School Year. -- For any school district which has a decrease in total average daily attendance of three percent (3%) or more of its average daily attendance in the 2011-2012 current school year from the total average daily attendance used for determining the allowance in the educational support program for the 2010-2011 prior school year, the allowance of funds from the educational support program may be based on the average daily attendance of the 2010-2011 prior school year, less three percent (3%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district. The legislature hereby encourages boards of trustees to actively pursue alternative funding to offset any reduction in funds stemming from the application of the provisions of this subsection (1). The provisions of this subsection (1) shall be null and void and of no force and effect on and after July 1, 2012 After applying the provisions of this subsection, the state department of education shall calculate the percentage of additional statewide support units to total statewide support units, and shall then reduce each school district's support units by this uniform percentage. The provisions of this subsection shall not apply to public charter schools.~~

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

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

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

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

(d) Elementary/Secondary School Attendance Units. -- Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are situated more than ten (10) miles distance from both the nearest like elementary grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district

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

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

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

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

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

(4) Support Program When District Boundaries are Changed.

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

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

(c) In new districts formed by consolidation of former districts after January 1, 2007, the support program allowance, for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. After the expiration of this period, the state department of education shall annually calculate the number of support units that would have been generated had

the previous school districts not consolidated. All applicable state funding to the consolidated district shall then be provided based on a support unit number that is halfway between this figure and the actual support units, provided that it cannot be less than the actual support units.

SECTION 3. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. The first two (2) payments by the state board of education shall be approximately thirty percent (30%) of the total general account appropriation for the fiscal year, while the third, fourth and fifth payments shall be approximately twenty percent (20%), ten percent (10%) and ten percent (10%), respectively. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to this limitation.
 - b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.
 - c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to the limitation imposed by paragraphs a. and b. of this subsection.
 2. Payments made to the school districts in August, October and November are advance payments for the current year and will may be based upon payments from the public school income fund for the preceding school year. Each school district shall may receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.
 3. No later than the fifteenth day of February in each year, the state department of education shall compute the state distribution factor based on the total average daily attendance through the first Friday in November. The factor will be used in payments of state funds in February and May. Attendance shall be reported in a format and at a time specified by the state department of education.
- As of the thirtieth day of June of each year the state department of education shall determine final payments to be made on July fifteenth next succeeding to the several school districts from the public school income fund for the school year ended June 30. The July payments shall take into consideration:
- a. the average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June,
 - b. all funds available in the public school income fund for the fiscal year ending on the thirtieth of June,

- c. all payments distributed for the current fiscal year to the several school districts,
- d. the adjustment based on the actual amount of discretionary funds per support unit required by the provisions of section 33-1018, Idaho Code,
- e. payments made or due for the transportation support program and the exceptional education support program. The state department of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2. of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars (\$50.00).

4. If the full amount appropriated to the public school income fund from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty (60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state superintendent of public instruction to the board of county commissioners and added to the district's maintenance and operation levy. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year, and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The state department of education shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state department of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill. The provisions of this subsection shall not apply to any transfers to or from the public education stabilization fund.

5. Any apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding additions to apportionments to any school district to which under-apportionments may have been made or received.

Law without signature.

CHAPTER 341
(H.B. No. 611)

AN ACT

RELATING TO LIVESTOCK LIENS; AMENDING SECTION 45-805, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SALE OF CERTAIN LIVESTOCK AT PUBLIC AUCTION AND TO REVISE PROVISIONS RELATING TO NOTICE OF PUBLIC AUCTION.

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

SECTION 1. That Section 45-805, Idaho Code, be, and the same is hereby amended to read as follows:

45-805. LIENS FOR SERVICES ON OR CARING FOR PROPERTY. (a) Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor, or skill, employed for the protection, improvement, safe keeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due him from the owner, for such service. If the liens as herein provided are not paid within sixty (60) days after the work is done, service rendered or materials supplied, the person in whose favor such special lien is created may proceed to sell the property at a public auction after giving ten (10) days' public notice of the sale by advertising in some newspaper published in the county where the property is situated, or if there is no newspaper published in the county then by posting notices of the sale in three (3) of the most public places in the county for ten (10) days previous to such sale. The person shall also send the notice of auction to the owner or owners of the property and to the holder or holders of a perfected security interest in the property as provided in subsection (c) of this section. The person who is about to render any service to the owner of an article of personal property by labor or skill employed for the protection, improvement, safekeeping or carriage thereof may take priority over a prior perfected security interest by, before commencing any such service, giving notice of the intention to render such service to any holder of a prior perfected security interest at least three (3) days before rendering such service. If the holder of the security interest does not notify said person, within three (3) days that it does not consent to the performance of such services, then the person rendering such service may proceed and the lien provided for herein shall attach to the property as a superior lien. The provisions of this section shall not apply to a motor vehicle subject to the provisions of sections 49-1809 through 49-1818, Idaho Code.

(b) Livery or boarding or feed stable proprietors, and persons pasturing livestock of any kind, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding or pasturing such livestock. If the liens as herein provided are not paid within sixty (60) days after the work is done, service rendered, or feed or pasturing supplied, the person in whose favor such special lien is created may proceed to sell the property at a licensed public livestock auction market, after giving ten (10) days' notice to the owner or owners of the livestock and the state brand inspector. The information contained in such notice shall be verified and contain the following:

- (1) The time, place and date of the licensed public livestock auction market;
- (2) The name, address and phone number of the person claiming the lien;
- (3) The name, address and phone number of the owner or owners of the livestock upon which the lien has been placed;
- (4) The number, breed and current brand of the livestock upon which the lien has been placed; and
- (5) A statement by the lienor that the requirements of this section have been met.

(c) Notices provided in subsections (a) and (b) of this section shall be made by personal service or by certified or registered mail to the last known address of the owner or owners and any holder of a prior perfected security interest. The proceeds of the sale must be applied to the discharge of any prior perfected security interest, the lien created by this section and costs; the remainder, if any, must be paid over to the owner.

Law without signature.

CHAPTER 342
(S.B. No. 1321, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-111, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE USE OF MONEYS IN THE WINTER FEEDING ACCOUNT, TO REMOVE A CONDITION RELATING TO THE USE OF MONEYS IN THE FEEDING ACCOUNT AND TO REQUIRE THE DEPARTMENT OF FISH AND GAME TO MAKE YEARLY REPORTS TO THE SENATE RESOURCES AND ENVIRONMENT COMMITTEE AND THE HOUSE RESOURCES AND CONSERVATION COMMITTEE DETAILING HOW FUNDS IN THE FEEDING ACCOUNT HAVE BEEN EXPENDED.

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

SECTION 1. That Section 36-111, Idaho Code, be, and the same is hereby amended to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Four dollars (\$4.00) of each steelhead trout or anadromous salmon permit sold. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars (\$2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents (\$1.50) from each antelope, elk and deer tag sold as provided in section 36-409, Idaho Code. Not less than seventy-five cents (75¢) of each one dollar and fifty cents (\$1.50) collected shall be placed in a separate account to be designated as a feeding account. Moneys in this account shall be used exclusively for the purposes of actual supplemental winter feeding of and rehabilitation of winter range for antelope, elk and deer. Moneys shall be used solely for the purchase of blocks, pellets and hay for such winter feeding purposes and/or for the purchase of seed or other material that can be shown to directly provide feed or forage for the winter feeding of antelope, elk and deer. The balance of moneys realized from this source may be used for the control of depredation of private property by antelope, elk and deer and control of predators affecting antelope, elk and deer. Moneys in the feeding account shall not be used for any purpose other than winter feeding as herein specified ~~until the total funds in the account, including any interest earnings thereon, equal or exceed four hundred thousand dollars (\$400,000).~~ Moneys in the feeding account may not be expended except upon the declaration of a feeding emergency by the director of the department of fish and game. Such emergency need not exist on a statewide basis but can be declared with respect to one (1) or more regions of the state. The department shall by rule establish the criteria for a feeding emergency. The department shall submit a yearly re-

port to the senate resources and environment committee and the house resources and conservation committee of the legislature on or before the 31st day of July, detailing how funds in the feeding account have been expended during the preceding fiscal year.

(d) Those amounts designated by individuals in accordance with section 63-3067A(3)(a), Idaho Code, and from fees paid under the provisions of section 49-417, Idaho Code. Moneys from these sources shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) Money derived from the assessment of processing fees. Moneys derived from this source shall be used as provided in section 36-1407, Idaho Code.

(2) Moneys in the fish and game set-aside account and the feeding account established in subsection (1)(c) of this section are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the fish and game set-aside account and the feeding account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code, with interest earned on investments from each account to be paid into that account.

Law without signature.

SENATE JOINT RESOLUTION

(S.J.R. No. 102)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 5, ARTICLE X, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE CONTROL OVER STATE PRISONS; TO PROVIDE THAT THE STATE BOARD OF CORRECTION SHALL HAVE THE CONTROL, DIRECTION AND MANAGEMENT OF ADULT FELONY PROBATION AND PAROLE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 5, Article X, of the Constitution of the State of Idaho be amended to read as follows:

Section 5. STATE PRISONS -- CONTROL OVER. The state legislature shall establish a nonpartisan board to be known as the state board of correction, and to consist of three members appointed by the governor, one member for two years, one member for four years, and one member for six years. After the appointment of the first board the term of each member appointed shall be six years. This board shall have the control, direction and management of the penitentiaries of the state, their employees and properties, and of adult felony probation and parole, with such compensation, powers, and duties as may be prescribed by law.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 5, Article X, of the Constitution of the State of Idaho be amended to provide that the state board of correction shall have the control, direction and management of adult felony probation and parole?"

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the Senate January 23, 2012

Adopted by the House February 1, 2012

HOUSE JOINT RESOLUTION

(H.J.R. No. 2)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 23, ARTICLE I, TO PROVIDE THAT THE RIGHTS TO HUNT, FISH AND TRAP, INCLUDING BY THE USE OF TRADITIONAL METHODS, ARE A VALUED PART OF THE HERITAGE OF THE STATE OF IDAHO AND SHALL FOREVER BE PRESERVED FOR THE PEOPLE AND MANAGED THROUGH THE LAWS, RULES AND PROCLAMATIONS THAT PRESERVE THE FUTURE OF HUNTING, FISHING AND TRAPPING, TO PROVIDE THAT PUBLIC HUNTING, FISHING AND TRAPPING OF WILDLIFE SHALL BE A PREFERRED MEANS OF MANAGING WILDLIFE AND TO PROVIDE THAT THE RIGHTS SET FORTH DO NOT CREATE A RIGHT TO TRESPASS ON PRIVATE PROPERTY, SHALL NOT AFFECT RIGHTS TO DIVERT, APPROPRIATE AND USE WATER, OR ESTABLISH ANY MINIMUM AMOUNT OF WATER IN ANY WATER BODY, SHALL NOT LEAD TO A DIMINUTION OF OTHER PRIVATE RIGHTS, AND SHALL NOT PREVENT THE SUSPENSION OR REVOCATION, PURSUANT TO STATUTE ENACTED BY THE LEGISLATURE, OF AN INDIVIDUAL'S HUNTING, FISHING OR TRAPPING LICENSE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article I, of the Constitution of the State of Idaho, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23, Article I, of the Constitution of the State of Idaho and to read as follows:

SECTION 23. THE RIGHTS TO HUNT, FISH AND TRAP. The rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping. Public hunting, fishing and trapping of wildlife shall be a preferred means of managing wildlife. The rights set forth herein do not create a right to trespass on private property, shall not affect rights to divert, appropriate and use water, or establish any minimum amount of water in any water body, shall not lead to a diminution of other private rights, and shall not prevent the suspension or revocation, pursuant to statute enacted by the Legislature, of an individual's hunting, fishing or trapping license.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article I, of the Constitution of the State of Idaho be amended by the addition of a New Section 23, to provide that the rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping; to provide that public hunting, fishing and trapping of wildlife shall be a preferred means of managing wildlife; and to provide that the rights set forth do not create a right to trespass on private property, shall not affect rights to divert, appropriate and use water, or establish any minimum amount of water in any water body, shall not lead to a diminution of other private rights, and shall not prevent the suspension or revocation, pursuant to statute enacted by the Legislature, of an individual's hunting, fishing or trapping license?"

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House March 22, 2012

Adopted by the Senate March 27, 2012

SENATE JOINT MEMORIALS

(S.J.M. No. 103)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF AGRICULTURE 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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, during the First Regular Session of the Sixty-first Idaho Legislature, we adopted Senate Joint Memorial No. 101, which urged the reauthorization and full funding of the federal Secure Rural School and County Self-Determination Act ("SRS" or "Act"); and

WHEREAS, the SRS was enacted to meet the financial obligations of the federal government in rural communities with extensive federal land ownership as these lands do not contribute to the county tax base. The SRS law establishes transfer payment schedules for federal moneys to be paid from the U.S. Treasury directly to the counties to help support their schools, roads and essential services; and

WHEREAS, in 2011, the SRS has provided approximately \$31 million dollars of federal funding to 34 Idaho counties for schools and roads with National Forest System lands in recognition of the federal government's obligation to these counties; and

WHEREAS, Congress has not yet reauthorized the SRS Act and the Act has now expired. Congress may still reauthorize, but current proposals for reauthorization are for less funding and for a shorter time than previous authorities; and

WHEREAS, the purpose of the SRS has always been for the federal government and counties to advance alternative arrangements to the SRS transfers; and

WHEREAS, five Idaho counties, Shoshone, Boundary, Clearwater, Idaho and Valley, commendably have developed a pilot project or an alternative proposal for SRS funding called a Community Forest Trust ("Trust"); and

WHEREAS, the proposed Trust would provide that resources on certain designated federal lands be managed for the purposes of providing revenues to all Idaho counties currently receiving SRS funding; and

WHEREAS, the resources on the federal lands included in the proposed Trust would be managed by Idaho Department of Lands professionals under all laws, federal and state, as they apply to state lands in Idaho, and overseen by a Board of Idaho County Commissioners appointed by the Governor; and

WHEREAS, lands included in the proposed Trust would remain federal lands and available to all Americans for recreation and enjoyment; and

WHEREAS, the resources in the Trust would be required to be managed prudently and sustainably, and management activities would be monitored to ensure environmental standards are met; and

WHEREAS, the Idaho counties have submitted a proposal to Congress to conduct a pilot of the Trust as part of the SRS reauthorization, and any revenues generated be deducted from approved SRS payments thereby helping both Idaho counties and the federal government meet deficit reduction goals; and

WHEREAS, the Trust pilot would be for a minimum of five years and include resources on 200,000 acres of federal forest land in Idaho; and

WHEREAS, the Idaho Association of Counties Board of Directors and the Idaho Association of Counties Public Lands Committee unanimously approved the Trust pilot in September 2011; and

WHEREAS, the Trust has been reviewed by the Idaho Land Board in August 2011 and supported, in concept, with direction to the Idaho Department of Lands to work with the counties on how it would be implemented.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to endorse and enact a Community Forest Trust pilot for Idaho, consistent with the proposal presented by Idaho counties to the U.S. House Natural Resources Committee as part of the July 14, 2011, hearing record on the Secure Rural Schools and Community Self-Determination Act of 2008 reauthorization.

BE IT FURTHER RESOLVED that we urge the Congress of the United States to reauthorize and extend the Secure Rural Schools and Community Self-Determination Act of 2008 (P.L. 110-343) for an additional ten-year period through federal fiscal year 2021, and that the Act be continued at federal fiscal year 2008 funding levels and be funded through mandatory, continuing appropriations.

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, the Secretary of Agriculture 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 Senate February 24, 2012

Adopted by the House March 23, 2012

(S.J.M. No. 104)

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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, all Idahoans have the right to life, liberty and the pursuit of happiness, as provided in the Declaration of Independence; and

WHEREAS, the Continental Congress of 1787 declared that "Religion, Morality and knowledge being necessary to good government and the happiness of mankind ..."; and

WHEREAS, James Madison, a key defender of religious freedom and author of the First Amendment, said "Conscience is the most sacred of all property"; and

WHEREAS, the Executive Branch of the United States government has directed the U.S. Department of Health and Human Services (HHS) to promulgate a new, "preventive services" mandate that violates the rights of conscience of a majority of U.S. citizens; and

WHEREAS, Thomas Jefferson in 1809 stated that "No provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority"; and

WHEREAS, this new mandate has been written into an HHS regulation requiring private health insurance plans to cover costs of female surgical sterilization and all drugs and devices approved by the U.S. Food and Drug Administration, including contraceptives and drugs that can attack an unborn child before and after implantation in the mother's womb, in effect taking away the right to life; and

WHEREAS, under this new regulation, the United States government forces individuals and organizations to go into the marketplace and purchase a product that violates their conscience; and

WHEREAS, this should not happen in a land where free exercise of religion ranks first in the Bill of Rights; and

WHEREAS, the new HHS regulation covers all Americans and provides for only a miniscule amount of agency discretion to authorize "religious" exemptions that will exclude many religious social service agencies and health care providers and other groups that believe in the sanctity of life; and

WHEREAS, using this exemption, organizations would be free to act in accord with their religious teachings on life and procreation only if they were to stop hiring and serving those that object on religious grounds; and

WHEREAS, by implementing this regulation, the United States government appears to place pressure on institutions that consider life to be sacred, directing them to cease providing health care, education and charitable services to the general public; and

WHEREAS, the new HHS regulation fails to create a meaningful "conscience exemption" to the preventive services mandate; and

WHEREAS, this regulation underscores the need for Congress to approve the Respect for Rights of Conscience Act that would prevent mandates under the new federal health care reform law from undermining rights of conscience; and

WHEREAS, this new federal regulation applies to all religions and faiths in America that contain members who are conscientiously objecting to any mandate that violates the rights of the unborn by forcing American taxpayers to subsidize the costs of drugs and procedures under the new term "emergency contraceptive"; and

WHEREAS, regarding the HHS regulation, Cardinal-designate Timothy Dolan, Archbishop of New York and president of the U.S. Conference of Catholic Bishops, stated "In effect the president is saying we have a year to figure out how to violate our consciences. To force Americans to choose between violating their consciences and forgoing their health care is literally unconscionable It is as much an attack on access to health care as on religious freedom"; and

WHEREAS, the pro-life majority of Americans would be outraged to learn that their health insurance premiums must be used for these purposes.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we request the President of the United States and the Congress of the United States to reverse and reject the HHS regulation so that those who sponsor, purchase and issue health insurance plans should not be forced to violate their deeply held moral and religious

convictions in order to take part in any health care system that violates their belief in the sanctity of life.

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, 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 1, 2012

Adopted by the House March 23, 2012

(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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the failure of Congress to reexamine, reform and reauthorize our nation's major environmental laws, particularly the Endangered Species Act and the National Environmental Policy Act, has resulted in a court takeover of species and public land management responsibilities; and

WHEREAS, Congress has failed to reclaim its constitutional role over the management of species and public lands from overzealous federal agencies and an activist federal judiciary; and

WHEREAS, the federal Equal Access to Justice Act continues to authorize the expenditure of countless taxpayer funds to pay attorney's fees for the management of federal public lands and species through the courts; and

WHEREAS, the same organizations that receive taxpayer funds for lawsuits via the Equal Access to Justice Act are forcing federal agencies, through the courts, to vastly expand the number of protected species and habitats regardless of whether a species has been added to the federal listing for Endangered or Threatened Species or is deserving of such protection; and

WHEREAS, the listing, or potential listing, of species including wolves, sage grouse and slickspot peppergrass pose a direct threat to the economic livelihood of ranchers across the State of Idaho; and

WHEREAS, the vast expansion of listed species has the potential to cause immeasurable financial harm to the economy of Idaho and severely curtail recreational opportunities across the state; and

WHEREAS, additional federal laws such as the National Wildlife Refuge System Improvement Act are causing increased and unnecessary regulatory burdens on local communities, resource users, recreationalists and the economy of host regions; and

WHEREAS, the U.S. Fish and Wildlife Service is considering dramatic new regulatory constraints on the enjoyment of man-made water bodies such as Lake Lowell and Lake Walcott; and

WHEREAS, the U.S. Fish and Wildlife Service is considering new regulations and constraints on hundreds of thousands of acres in Boundary and Bonner Counties for caribou without adequate scientific justification; and

WHEREAS, federal authorization for the Endangered Species Act expired on October 1, 1992; and

WHEREAS, federal, state and local governments are enjoined in constitutional duty and fiduciary responsibility to provide all available remedies to protect the economy, customs, culture, public safety and public health of the citizenry; and

WHEREAS, Idaho's federal legislators have long recognized and championed reforms to the Endangered Species Act, the National Environmental Policy Act and the Equal Access to Justice Act that would limit the role of the courts in the management of species and public lands and recognize the important role that states and local units of government should play in species and land management decisions.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge Congress to reexamine, reform and reauthorize the Endangered Species Act, the National Environmental Policy Act, the Equal Access to Justice Act and any other federal law that disrespects the role of states and local governments in land management decisions and leads to costly and frivolous lawsuits that strip authority from Congress and place it in the hands of the judiciary.

BE IT FURTHER RESOLVED that the Senate and the House of Representatives of Idaho call on the President of the United States of America to forcefully direct his federal land management agencies to utilize free market principles such as cost-benefit analysis and peer review of the science involved in their decision making and respect the concept of multiple use in the management of federal lands.

BE IT FURTHER RESOLVED that the Senate and the House of Representatives of Idaho call on our congressional delegation to urge all federal land management agencies to use their discretionary authority to maximize the role and influence of local communities in federal land management decisions.

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 5, 2012

Adopted by the House March 23, 2012

HOUSE JOINT MEMORIALS

(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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Congress admitted Idaho to the Union in 1890, soon thereafter created the United States District Court for the District of Idaho with one United States District Judge, created a second United States District Judge in 1954, but has not created any other United States District Judges for the Idaho federal court since then; and

WHEREAS, Idaho's population has grown from approximately 600,000 in 1954 to over 1.5 million as of the 2010 census; and

WHEREAS, the District of Idaho has the fewest federal district judges of any of the judicial districts in the Ninth Circuit, with the exception of Guam and the Northern Mariana Islands; and

WHEREAS, Alaska with a 2010 census population of 710,231, Montana with a 2010 census population of 989,415, South Dakota with a 2010 census population of 814,180 and Wyoming with a 2010 census population of 563,626 each have three federal district judges even though their populations are significantly smaller than the population of Idaho; and

WHEREAS, Idaho is the 14th largest state with an area of 83,570 square miles, and its federal district judges are required to travel throughout this large and far-flung state to four designated and distant locations to conduct hearings and trials in both criminal and civil cases; and

WHEREAS, Idaho's United States District Court had 170 pending criminal and civil cases in 1954, and had 942 pending criminal and civil cases as of September 2011; and

WHEREAS, although the Idaho federal court has magistrate judges, civil litigants with cases before the court frequently exercise their right to have a United States District Judge assigned to their cases, only district judges may try felony criminal cases, speedy trial requirements and the size of the criminal case load cause delays in civil cases pending before Idaho's district judges, and complex cases can tie up district judges for months at a time, all of which have forced the Idaho federal court to increasingly rely on out-of-state federal district judges as shown by the 96 percent increase in visiting judge hours in 2008; and

WHEREAS, the United States District Court for Idaho is recognized within the federal judicial system, by Idaho's lawyers and by the citizens of Idaho as an exemplary court comprised of judges and staff making enormous efforts and sacrifices to meet the demands of its caseload and doing so in a highly competent fashion; and

WHEREAS, notwithstanding the extraordinary and laudable efforts of the United States District Court for the District of Idaho to meet the demands of its caseload, the resources available to it are inadequate, and the resulting situation has created an unsustainable burden on the court, delayed justice, hindered the rights of the people of Idaho, and hindered the economy of our state; and

WHEREAS, the people of Idaho have needed a third federal district judge for a very long time and in 2002 Senate Joint Memorial 110 was adopted by the Second Regular Session of the 56th Idaho Legislature urging the Congress of the United States to authorize an additional United States District Court Judge and the staff necessary to assist in the handling of the District of Idaho's increasing caseload, but, to date, Congress has failed to act; and

WHEREAS, a properly resourced and properly functioning judiciary is a fundamental and core governmental function essential to the preservation of the people's rights and their freedom.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby respectfully urge the Congress of the United States to authorize an additional United States District Court Judge and commensurate staff for the District of Idaho to assist in handling current and anticipated caseloads in the District of Idaho; and

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 January 30, 2012

Adopted by the Senate February 20, 2012

(H.J.M. No. 7)

A JOINT MEMORIAL

TO PRESIDENT BARACK OBAMA, 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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on May 15, 2005, Idaho native Army Sergeant Chris Tschida and the three crew members of his tank were patrolling route "Michigan" between Ramadi and Fallujah in the Al Anbar Province of Iraq while conducting operations under Operation Iraqi Freedom; and

WHEREAS, Sgt. Tschida, along with his loader, were standing watch in the gun turret, watching for enemy activity while the tank driver and a Lieutenant were inside the tank preparing for a mission later that night. The loader shifted his body and accidentally knocked his water bottle down inside the tank and while lowering himself inside the tank to pick up the water, an insurgent used the opportunity to attack by throwing two enemy grenades inside the tank; and

WHEREAS, Sgt. Tschida could hear the grenades fall in the tank and instantly found one, yelling "grenade!" to his crew members while retrieving one grenade to put into the tank's breach to absorb the blast. In this process, the grenade exploded and amputated Sgt. Tschida's left hand. Moments later the second grenade exploded inside the tank, severely wounding Sgt. Tschida and two of the other crew members; and

WHEREAS, still conscious, Sgt. Tschida began assessing the damage inside the tank, but was unable to see because of the smoke and fire caused by the grenade. Sgt. Tschida attempted to key the microphone on his radio to call for support and report the enemy attack when he noticed his left hand was missing. Sgt. Tschida wrapped the stump of his hand into his shirt and began checking the status of his tank and fellow soldiers. At first glance Sgt. Tschida saw his Lieutenant slumped over and unconscious with his head resting on the .50 caliber sight. The Lieutenant was bleeding heavily from his eye socket and appeared to be dead; and

WHEREAS, Sgt. Tschida then noticed his loader, hanging half-way out of the tank's turret, missing both legs from the knees down. Sgt. Tschida shook his Lieutenant to see if he was alive, at which time the Lieutenant let out a gasp of air that confirmed he was not dead; and

WHEREAS, an evaluation of the tank also confirmed the ammunition bay had been busted open from the grenade blast and the tank ammunition was at risk of catching fire and exploding. Knowing he and his fellow soldiers were not safe inside the tank, Sgt. Tschida pulled himself out of the hatch and then began pulling his loader out of the tank. Once his loader was safely out of the tank, Sgt. Tschida began pulling his Lieutenant out of the commander's hatch of the tank. Once both soldiers were safely out of the tank, Sgt. Tschida began administering first aid by tying a tourniquet on both of the loader's legs and by stuffing a field bandage inside of the eye socket of the Lieutenant to stop the bleeding from his head; and

WHEREAS, while caring for both soldiers, Sgt. Tschida did a security check of his area. At this time an enemy insurgent, believed to be the one who attacked Sgt. Tschida's tank, engaged Sgt. Tschida while he was administering first aid to his fellow soldiers. Sgt. Tschida was able to repel the enemy assault with his M9 service pistol, killing the hostile force; and

WHEREAS, knowing they were in imminent danger, Sgt. Tschida attempted to get the driver of the tank to respond to his commands, but the soldier was in shock and unresponsive. After beating on the hatch and pleading with the driver to respond, the driver opened the driver's hatch and began receiving commands from Sgt. Tschida. At this time, Sgt. Tschida commanded the driver to return them and the tank with its munitions back to the nearest security gate to get help. Sgt. Tschida then shielded both soldiers with his body on the surface of the tank until they arrived at a safe location; and

WHEREAS, all four crew members, including Sgt. Tschida, survived the injuries they sustained on May 15, 2005, and the tank was returned and repaired for future use. To this day, Sgt. Chris Tschida has not received recognition or accolades for his heroism and steadfast leadership on May 15, 2005.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge President Barack Obama, in the name of Congress, to award Retired Sergeant Chris Tschida the Medal of Honor for distinguishing himself through conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty, or the highest appropriate recognition.

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 President Barack Obama, 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 6, 2012

Adopted by the Senate February 20, 2012

(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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, putting our children first is both an economic imperative and a moral necessity, and a strong education system is vital to a strong economy; and

WHEREAS, public education is clearly an area left to the states under the Tenth Amendment to the United States Constitution; and

WHEREAS, the federal No Child Left Behind law requires unrealistic expectations as nearly one-half of the public schools in the United States did not meet federal achievement standards in 2011, including eighty-nine percent of Florida's public schools; and

WHEREAS, the federal No Child Left Behind law constricts the definition of education into a narrow test-based approach where repetition and memorization are more important than application, and it discourages creativity by students and teachers; and

WHEREAS, the federal No Child Left Behind law's emphasis on math and reading means less attention for other very important subjects such as history, art, music, vocational education and physical education; and

WHEREAS, the federal No Child Left Behind law is insufficiently funded to bring about its intended effect and it has imposed what is essentially an unfunded educational mandate on the states; and

WHEREAS, the ongoing recession has forced the State of Idaho to make difficult decisions regarding the funding of public education and these decisions have resulted in larger class sizes, layoffs of educational staff, curtailment of extracurricular activities and school sponsored programs and a shorter school year; and

WHEREAS, economic recovery and development depend upon an educated workforce that possesses the skills that are necessary to handle the jobs of the 21st century; the State of Idaho cannot achieve and maintain prosperity if it does not properly fund secondary and post-secondary education; and Republicans and Democrats agree that burdensome regulations prevent our schools, our teachers and our students from achieving their potential.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States of America is respectfully urged to repeal the No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).

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 28, 2012

Adopted by the Senate March 9, 2012

(H.J.M. No. 13)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF STATE, THE UNITED STATES ATTORNEY GENERAL, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF COMMERCE, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, 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 Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States and Canada enjoy a partnership long rooted in a history of peaceful coexistence and one of the largest and most successful economic relationships in the world; and

WHEREAS, the United States and Canada are each other's largest single export market; and

WHEREAS, millions of jobs in both the United States and Canada depend on the trade and investment flowing across the border between the two countries; and

WHEREAS, Canada is one of Idaho's top trading partners, based on 2010 data, and our companies and industries depend on integrated cross-border supply chains and production processes; and

WHEREAS, on February 4, 2011, the Prime Minister of Canada and the President of the United States issued a declaration on a Shared Vision for Perimeter Security and Economic Competitiveness, which called for a joint action plan; and

WHEREAS, the United States and Canada established a Beyond the Border Working Group composed of representatives from the relevant departments and offices of their federal governments to develop the action plan and be responsible for its implementation; and

WHEREAS, the Beyond the Border Action Plan was released in December of 2011; and

WHEREAS, the Beyond the Border Action Plan details methods for the United States and Canada to work together to enhance joint security and accelerate the legitimate flow of people, goods and services through four areas of cooperation: (1) addressing threats early; (2) trade facilitation, economic growth and jobs; (3) cross-border law enforcement; and (4) critical infrastructure and cybersecurity; and

WHEREAS, on February 4, 2011, the Prime Minister of Canada and the President of the United States announced the creation of the United States-Canada Regulatory Cooperation Council to increase regulatory transparency and coordination between the two countries; and

WHEREAS, the initial Joint Action Plan of the Regulatory Cooperation Council was released in December of 2011; and

WHEREAS, the Action Plan on Regulatory Cooperation will help reduce barriers to trade, lower costs for consumers and business and create economic opportunities on both sides of the border through the alignment of regulatory approaches in the areas of agriculture and food, transportation, health and personal care products, chemical management, the environment and other cross-sectoral areas, while not compromising our health, safety or environmental protection standards; and

WHEREAS, Idaho has much to gain from the development of joint strategies and integrated approaches to enhance security and efficient trade between Canada and the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the President, Executive Branch Agencies and Congress work together to see that the Beyond the Border Action Plan on Perimeter Security and Economic Competitiveness and the Action Plan on Regulatory Cooperation are carried out and that the United States' appointees to the Beyond the Border Working Group, the Regulatory Cooperation Council, and the United States' agencies responsible for implementing the action plans have the resources necessary to assist in realizing the goals of the action plans.

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 the United States Department of State, the United States Attorney General, the Secretary of the United States Department of Homeland Security, the Secretary of the United States Department of Commerce, the Secretary of the United States Department of Transportation, 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 19, 2012

Adopted by the Senate March 23, 2012

(H. J. M. No. 14)

A JOINT MEMORIAL

TO THE PRESIDENT AND SECRETARY OF STATE OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, THE PRIME MINISTER OF SPAIN, THE PRESIDENT OF FRANCE, THE PRESIDENT OF THE GOVERNMENT OF THE BASQUE AUTONOMOUS COMMUNITY AND THE PRESIDENT OF THE FORAL GOVERNMENT OF NAVARRE.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the State of Idaho is a North American center of the Basque population, and many of those citizens of this state have kept close ties to the homeland of their forefathers; and

WHEREAS, from the time of the government of the last dictatorship in Spain until the present, the Basque Country has experienced decades of terror and violence; and

WHEREAS, in 1972, the Second Regular Session of the Forty-first Idaho Legislature adopted Senate Joint Memorial No. 115 that condemned the gov-

ernment of the last dictatorship in Spain and urged peace and democracy in the Basque Country; and

WHEREAS, in 2002, the Second Regular Session of the Fifty-sixth Idaho Legislature unanimously adopted Senate Joint Memorial No. 114 that condemned all terrorist organizations operating in the world and specifically the terrorist organization Euskadi 'ta Askatasuna (ETA) in Spain and expressed strong support for an immediate end to all violence in the Basque Country and for the establishment of peace and freedom through all democratic and lawful means as well as the recognition of the right to self-determination; and

WHEREAS, in 2006, the Second Regular Session of the Fifty-eighth Idaho Legislature adopted House Joint Memorial No. 26 that condemned all acts of terrorism and violence by all organizations and individuals within the Basque Country and throughout the world.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State of Idaho recognizes and commends ETA's statements of a definitive cessation of its armed activity and end to terrorism, and further commends the governments of Spain, France, the Basque Autonomous Community and Navarre for their actions to promote dialogue on the future of the Basque territories and achieving a lasting peace.

BE IT FURTHER RESOLVED that the State of Idaho extends its encouragement and support to their democratic governments in their ongoing efforts to establish a negotiation process to create a lasting peace, to recognize all victims of terrorism and to consider all democratic forms of referenda on the constitutional future of the Basque territories.

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 and Secretary of State of the United States, 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, the Prime Minister of Spain, the President of France, the President of the Basque Autonomous Community and the President of the Foral Government of Navarre.

Adopted by the House March 22, 2012

Adopted by the Senate March 26, 2012

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 112)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ACKNOWLEDGING THE SERIOUSNESS OF ALZHEIMER'S DISEASE AND OTHER DEMENTIAS IN IDAHO BY ENDORSING THE IDAHO ALZHEIMER'S PLANNING GROUP AND SUPPORTING SAID PLANNING GROUP'S COMPREHENSIVE APPROACH TO THE DEVELOPMENT OF A STATEWIDE PLAN TO ADDRESS THE NEEDS OF PEOPLE WITH ALZHEIMER'S DISEASE AND OTHER DEMENTIAS, THEIR FAMILY MEMBERS AND CAREGIVERS.

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

WHEREAS, some 26,000 Idahoans are currently diagnosed with Alzheimer's disease, and the number is projected to increase significantly through 2025; and

WHEREAS, Idaho is projected to have the fifth highest increase in people suffering from Alzheimer's disease among all of the United States over the next several years; and

WHEREAS, Alzheimer's disease is the only major cause of death that has a mortality rate that continues to increase; and

WHEREAS, Idaho's mortality rate from Alzheimer's disease is consistently higher than the national average; and

WHEREAS, 41% of Idahoans living in nursing homes have moderate to severe dementia; and

WHEREAS, the Idaho Alzheimer's Planning Group is developing a plan to address the problem of Alzheimer's disease and other dementias throughout the state; and

WHEREAS, the Idaho State Plan for Alzheimer's disease and other dementias will help agencies, organizations and individuals develop specific programs and strategies to meet the needs of Alzheimer's patients, their families and caregivers at the state, regional and local levels.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho acknowledges the seriousness of the impact of Alzheimer's disease and other dementias upon the state by endorsing the Idaho Alzheimer's Planning Group's community awareness, data collection and resulting statewide plan development and implementation efforts to address the issue.

BE IT FURTHER RESOLVED that the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, support the Idaho Alzheimer's Planning Group's comprehensive approach toward educating the public about Alzheimer's disease and other dementias; collecting and analyzing statewide data related to current and future needs for Alzheimer's patients, families and caregivers; and recommending programs and strategies for addressing those needs.

Adopted by the Senate February 20, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 114)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO MEDICAID ENHANCED PLAN BENEFITS.

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 Department of Health and Welfare relating to Medicaid Enhanced Plan Benefits are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 16.03.10, Department of Health and Welfare, Rules Governing Medicaid Enhanced Plan Benefits, Section 119, Subsections 02.b and 03, Section 140, Subsections 08.b and 09, Section 659, Subsections 01.b and 02, Section 706, Subsections 04 and 05, and Section 736, Subsections 09 and 10, only, adopted as pending rules under Docket Number 16-0310-1104, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 13, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 115)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE BUREAU OF OCCUPATIONAL LICENSES RELATING TO RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS.

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 certain rule of the Bureau of Occupational Licenses relating to Rules of the Board of Drinking Water and Wastewater Professionals is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 24.05.01, Bureau of Occupational Licenses, Rules of the Board of Drinking Water and Wastewater Professionals, Section 375, Subsection 02.c, only, adopted as a pending rule under Docket Number 24-0501-1101, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 13, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 117)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF AGRICULTURE RELATING TO RULES GOVERNING THE IMPORTATION OF ANIMALS.

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 certain rule of the Department of Agriculture relating to Rules Governing the Importation of Animals is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 02.04.21, Department of Agriculture, Rules Governing the Importation of Animals, Section 600, Subsection 02, relating to Parasiticide, only, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 20, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE.

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 certain rule docket of the Division of Building Safety relating to Rules Governing the Use of National Electrical Code is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.01.06, Division of

Building Safety, Rules Governing the Use of National Electrical Code, the entire rulemaking docket, adopted as a pending rule under Docket Number 07-0106-1101, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 14, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF ADMINISTRATION RELATING TO RULES GOVERNING GROUP INSURANCE.

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 certain rule of the Department of Administration relating to Rules Governing Group Insurance is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 38.03.01, Department of Administration, Rules Governing Group Insurance, Section 040, Subsection 02.a, only, adopted as a pending rule under Docket Number 38-0301-1101, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 15, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 120)

A CONCURRENT RESOLUTION

REJECTING APPLICATION TO APPROPRIATE WATER FOR MINIMUM LAKE LEVEL RELATING TO COCOLALLA LAKE LOCATED IN BONNER COUNTY.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any lake to establish a minimum lake level; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an application approved by the Idaho Department of Water Resources for a minimum lake level shall not become finally effective until affirmatively acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, on January 15, 2010, the Idaho Department of Water Resources issued a preliminary order approving an application to establish a minimum lake level as follows:

Source of water:	Cocolalla Lake located in Bonner County at Township 55 North, Range 2 West, B.M.
Purpose for the minimum lake level:	To preserve aesthetics, water quality and recreational uses.
The minimum lake level:	A water surface elevation of 2,207.77 feet above sea level from January 1 through December 31.
Proposed Priority Date:	July 21, 2008.

WHEREAS, the preliminary order approving the application became final on January 29, 2011.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby rejected.

Adopted by the Senate February 28, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 121)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE IDAHO FISH AND GAME COMMISSION RELATING TO RULES GOVERNING LICENSING.

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 certain rule docket of the Idaho Fish and Game Commission relating to Rules Governing Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.04, Idaho Fish and Game Commission, Rules Governing Licensing, adopted as a pending rule under Docket Number 13-0104-1102, 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 27, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 122)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO STATE POLICE RELATING TO RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL.

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 Idaho State Police relating to Rules of the Idaho Peace Officer Standards and Training Council are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 11.11.01, Idaho State Police, Rules of the Idaho Peace Officer Standards and Training Council, Sections 091 and 092, only, adopted as pending rules under Docket Number 11-1101-1102, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 27, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 123)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO RESTRUCTURE FINANCING OF CERTAIN BONDS ISSUED TO ACQUIRE PROPERTIES ALONG BILLINGSLEY CREEK IN HAGERMAN VALLEY AND TO FACILITATE THE EXCHANGE OF PROPERTY.

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

WHEREAS, by Senate Concurrent Resolution No. 116 of the First Regular Session of the Fifty-sixth Idaho Legislature in 2001, the Department of Parks and Recreation was authorized to enter into agreements with the Idaho State Building Authority to provide financing for the acquisition of the Vardis Fisher property and other parcels along Billingsley Creek in the Hagerman Valley for the purpose of partnering with the University of Idaho in developing a key aquaculture and research facility for endangered species and development of recreation facilities;

WHEREAS, the federal government has failed to provide funding for the aquaculture and research facility;

WHEREAS, the University of Idaho has ceased its use of the aquaculture facilities on the property;

WHEREAS, the Vardis Fisher property has limited potential for recreational development;

WHEREAS, the Department of Parks and Recreation desires to exchange the Vardis Fisher property for property with greater recreational potential;

WHEREAS, the Department of Parks and Recreation is unable to exchange the Vardis Fisher property since title remains in the Idaho State Building

Authority until bonds issued by the Idaho State Building Authority to finance the acquisition of the Billingsley Creek properties are paid in full;

WHEREAS, it is in the interest of the Department of Parks and Recreation to arrange for transfer of existing properties and facilities to the Idaho State Building Authority in order to accommodate the issuance of bonds to pay off the outstanding bonds related to the Billingsley Creek properties and allow the Idaho State Building Authority to transfer the title of the Billingsley Creek properties to the Department of Parks and Recreation so as to accommodate an exchange of the Vardis Fisher property; and

WHEREAS, because interest rates available for Idaho State Building Authority financing are at historic low levels, the proposed restructuring can be achieved without additional cost to the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Parks and Recreation to enter into agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, for the purpose of restructuring the financing using the existing property or facilities owned by the Department of Parks and Recreation, and for the transfer of title of the Billingsley Creek properties to the Department of Parks and Recreation.

BE IT FURTHER RESOLVED that this Concurrent Resolution constitutes the authorization required by the provisions of section 67-6410, Idaho Code.

Adopted by the Senate March 1, 2012

Adopted by the House March 22, 2012

(S.C.R. No. 124)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE IDAHO DIGITAL LEARNING ACADEMY FOR ITS ACHIEVEMENTS IN PROVIDING QUALITY ONLINE EDUCATION FOR IDAHO STUDENTS.

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

WHEREAS, the Idaho Digital Learning Academy (IDLA) is nationally recognized for its best practices in online learning and is a leader among state online programs; and

WHEREAS, the IDLA has demonstrated its ability to facilitate excellent student achievement, course quality, teacher development and has increased school district capacity; and

WHEREAS, the IDLA has developed and maintained a network of educational resources for all Idaho educators, and Idaho teachers and administrators have access to these resources, which cover a broad range of topics, including classroom instructional techniques, how to implement a blended learning environment and more; and

WHEREAS, the IDLA has presented hundreds of workshops and training seminars to local and national organizations on topics ranging from blended learning to online pedagogy to online teacher evaluations; and

WHEREAS, since 2002, the IDLA has increased the capacity and knowledge of technology staff in best practices for online implementation in 115 school districts plus another 40 charter schools; and

WHEREAS, the IDLA works with districts to ensure that technology used in online courses meets the specific requirements of Idaho school districts, and that the Academy partners with the Idaho Education Technology Association to ensure that Idaho technology directors are the first to know of technology changes; and

WHEREAS, from 2009-2010 to 2010-2011, Dual Credit courses grew by 46% and Advanced Placement courses grew by 44%; and

WHEREAS, the IDLA supports the matriculation of technical preparatory programs statewide by offering foundational courses as part of the overall course of study and, by providing these classes online, it allows districts to focus on advanced curriculum and accept a wider population into their programs; and

WHEREAS, the IDLA continuously reviews and upgrades digital content to align with Idaho standards and iNACOL online standards, and promotes student engagement through innovative multimedia; and

WHEREAS, IDLA teachers, through ongoing professional development and training, gain valuable knowledge and technical skills in online pedagogy, online course delivery, and quality content development, and IDLA teachers are often recognized as leaders in advancing education in their local schools; and

WHEREAS, the IDLA has employed more than 500 Idaho residents since its creation and IDLA purchases products and services from local vendors and suppliers, thereby keeping IDLA money in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize the efforts of the Idaho Digital Learning Academy in establishing and providing many of the best practices in online learning and in helping Idaho students excel in their educational endeavors.

Adopted by the Senate March 7, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 125)

A CONCURRENT RESOLUTION

STATING THE FINDINGS OF THE LEGISLATURE AND ENDORSING AND ENCOURAGING GOVERNOR C.L. "BUTCH" OTTER IN HIS EFFORTS MOVING FORWARD WITH THE GOVERNOR'S SAGE-GROUSE TASK FORCE.

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

WHEREAS, in March of 2010, the U.S. Fish and Wildlife Service determined that listing greater sage-grouse as a threatened or endangered species under the federal Endangered Species Act ("ESA") was warranted, but precluded by higher priority listing actions. Sage-grouse are now classified as "warranted but precluded"; and

WHEREAS, Governor C.L. "Butch" Otter has emphasized the great need to conserve the species and its habitat while maintaining other multiple uses of Idaho's public lands; and

WHEREAS, the U.S. Fish and Wildlife Service will be required to reevaluate the status of the species throughout its eleven-state western range by September 30, 2015; and

WHEREAS, Governor Otter has acknowledged this timeline provides Idaho an opportunity to continue and improve the good work Idaho has already been doing towards precluding the need to list the species. The Governor has noted that, over the past ten years, Idaho has developed a Sage-Grouse Conservation Plan, and funding has been provided for the twelve Sage-Grouse Local Working Groups to provide on-the-ground conservation measures. The Governor states that through this work we have halted the decline and are now seeing a gradual increase in some of Idaho's sage-grouse populations; and

WHEREAS, Governor Otter desires to ensure that Idaho has a sound, science-based plan that will provide for the bird's sustainability in Idaho,

preclude a listing under the ESA, assure predictable uses of Idaho's public lands and enable Idaho citizens to participate in the process. With those goals in mind, Governor Otter will be forming a Governor's Task Force on Idaho Sage-Grouse; and

WHEREAS, Governor Otter has established specific goals for the Idaho plan, which goals include the drafting of a plan for the greater sage-grouse to exempt the state from compliance with the National Bureau of Land Management's Instruction Memorandum guidance, to provide a mechanism to preclude the need to list the species under the ESA, and in the event of listing, to minimize the impact to and provide regulatory certainty for, the use of permitted and lawful activities on public land; and

WHEREAS, Governor Otter has also established objectives of the task force in development of a plan that is biologically-driven, legally defensible and politically palatable, centered on conserving the species and its habitat while maintaining predictable levels of land use and the result of input from a diverse group of stakeholders. Additional objectives will include the ability of the plan to be incorporated into the Bureau of Land Management's Resource Management Plans (RMPs) and the U.S. Forest Service's Land Management Plans (LMPs) consistent with the requirements of the National Environmental Policy Act (NEPA), calibrated to meet the "adequate regulatory mechanism" standard under the ESA, and built on, to the extent possible, the great efforts provided by local sage-grouse working group plans and the current 2006 statewide plan for the species. The task force would also request and seek pertinent scientific information and technical expertise to inform the task force's deliberations regarding key sage-grouse habitat.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we endorse and encourage Governor C.L. "Butch" Otter in his efforts moving forward expeditiously with the Governor's Task Force on Idaho Sage-Grouse and request that the Governor report to the Pro Tempore of the Senate and the Speaker of the House of Representatives upon completion of the plan and to report on the work and progress of the task force to the 1st Regular Session of the 62nd Idaho Legislature.

BE IT FURTHER RESOLVED that we encourage the Governor's coordinated involvement of state agencies and offices with jurisdiction significantly affecting sage-grouse including, but not limited to, the Idaho Department of Fish and Game, the Idaho State Department of Agriculture, the Department of Lands, the Department of Parks and Recreation, the Office of Energy Resources and the Office of Species Conservation.

BE IT FURTHER RESOLVED that we encourage the coordinated involvement with neighboring states in their response to the Bureau of Land Management and the U.S. Forest Service guidance and policy proposals. We further request that the Governor consider the appropriate use of the state's Constitutional Defense Fund to defend the state's interest in the management of its resources, including both its lands and its wildlife. The Legislature also encourages Attorney General Lawrence G. Wasden and the Office of the Governor to continue vigorous defense of Idaho's interests by actively intervening in federal litigation affecting sage-grouse.

Adopted by the Senate March 5, 2012

Adopted by the House March 23, 2012

(S.C.R. No. 128)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH STATED EXCEPTIONS, AND REJECTING AGENCY RULES THAT IMPOSE A FEE OR CHARGE THAT ARE NOT APPROVED BY THIS OR BY SEPARATE CONCURRENT RESOLUTION.

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, the Legislature finds that a certain rule docket of the Bureau of Occupational Licenses, Rules of the Idaho Driving Businesses Licensure Board, is not consistent with legislative intent; and

WHEREAS, the Legislature finds that a certain rule docket of the Division of Building Safety, Rules Governing Continuing Education Requirements, is not consistent with legislative intent; and

WHEREAS, the Legislature finds that a certain rule docket of the Division of Building Safety, Rules Governing Plumbing Safety Licensing, is 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 Second Regular Session of the Sixty-first 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 2012 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 24.25.01, Bureau of Occupational Licenses, Rules of the Idaho Driving Businesses Licensure Board, adopted as a pending fee rule under Docket Number 24-2501-1101, the entire rulemaking docket;

IDAPA 07.01.07, Division of Building Safety, Rules Governing Continuing Education Requirements, adopted as a pending fee rule under Docket Number 07-0107-1101, the entire rulemaking docket; and

IDAPA 07.02.05, Division of Building Safety, Rules Governing Plumbing Safety Licensing, adopted as a pending fee rule under Docket Number 07-0205-1101, the entire rulemaking docket.

BE IT FURTHER RESOLVED that IDAPA 24.25.01, Bureau of Occupational Licenses, Rules of the Idaho Driving Businesses Licensure Board, adopted as a pending fee rule under Docket Number 24-2501-1101, the entire rulemaking docket; IDAPA 07.01.07, Division of Building Safety, Rules Governing Continuing Education Requirements, adopted as a pending fee rule under Docket Number 07-0107-1101, the entire rulemaking docket; and IDAPA 07.02.05, Division of Building Safety, Rules Governing Plumbing Safety Licensing,

adopted as a pending fee rule under Docket Number 07-0205-1101, the entire rulemaking docket, are hereby rejected and not approved, and thereby pursuant to Sections 67-5224 and 67-5291, 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 8, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 129)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE, WITH STATED 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 Second Regular Session of the Sixty-first 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 2012 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 16.03.09, Department of Health and Welfare, Medicaid Basic Plan Benefits, adopted as a temporary rule under Docket Number 16-0309-1201, the entire rulemaking docket; and

IDAPA 26.01.36, Department of Parks and Recreation, Rules Governing the Winter Recreational Parking Permit Program, adopted as a temporary rule under Docket Number 26-0136-1101, 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 First Regular Session of the Sixty-second 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 2012 legislative session shall ex-

pire by operation of statute upon adjournment of the Second Regular Session of the Sixty-first Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 8, 2012

Adopted by the House March 21, 2012

(S.C.R. No. 130)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND RECOGNIZING THE ACHIEVEMENTS OF THE UNION PACIFIC RAILROAD ON ITS 150TH ANNIVERSARY.

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

WHEREAS, President Abraham Lincoln signed the Pacific Railway Act on July 1, 1862, creating the original Union Pacific Railroad; and

WHEREAS, the Oregon Short Line, a Union Pacific Railroad subsidiary, entered Idaho in 1882, eventually consolidating with the Utah Northern Railroad and the Utah Central Railroad, then merging into the Union Pacific Railroad in 1898; and

WHEREAS, the Union Pacific Railroad is the principal operating company of Union Pacific Corporation, linking the twenty-three states in the western two-thirds of the country by rail and providing freight solutions and logistics expertise to the global supply chain; and

WHEREAS, the Union Pacific Railroad has 849 miles of Idaho track traversing many communities in the state and serving Idaho's agriculture, phosphate and forest products industries; and

WHEREAS, Northern and Southern Idaho are home to two of Union Pacific's main transcontinental arteries; and

WHEREAS, Pocatello and Nampa are both important hubs of branch lines and important terminals for Union Pacific in Idaho; and

WHEREAS, Union Pacific has 950 employees in Idaho with an annual payroll of \$73.7 million; and

WHEREAS, Union Pacific has made more than \$45 million in capital investments in Idaho over the last two years and has provided more than \$275,000 to charitable organizations in the state; and

WHEREAS, July 1, 2012, is the 150th anniversary of the Union Pacific Railroad.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the achievements of the Union Pacific Railroad and its service to the people of the State of Idaho be recognized in this year of its 150th anniversary.

BE IT FURTHER RESOLVED that the Secretary of the Senate shall deliver a copy of this Resolution to the Union Pacific Railroad.

Adopted by the Senate March 12, 2012

Adopted by the House March 23, 2012

(S.C.R. No. 131)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE IDAHO DEPARTMENT OF HEALTH AND WELFARE TO CONDUCT TOWN HALL MEETINGS THROUGHOUT THE STATE TO GATHER FEEDBACK ON HOW TO RETAIN AND RECRUIT VOLUNTEER EMERGENCY MEDICAL SERVICES PROVIDERS.

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

WHEREAS, Idaho is predominantly a rural state that relies heavily on volunteers for the provision of emergency medical services; and

WHEREAS, the existence of competent volunteer emergency medical services providers throughout Idaho is vital to the well-being of all those who live in or visit Idaho; and

WHEREAS, the requirements placed on volunteer emergency medical services providers must provide an assurance of public safety while not being onerous to a point so as to discourage volunteer participation.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we encourage the Idaho Department of Health and Welfare to conduct outreach town hall meetings throughout Idaho to develop a better understanding of the challenges that hinder recruitment and retention of volunteer emergency medical services providers.

BE IT FURTHER RESOLVED that the Department should schedule the town hall meetings in the evening hours to enable maximum participation by concerned stakeholders and should hold the town hall meetings in locations that will enable concerned stakeholders to attend without having to drive any farther than 50 miles whenever possible.

BE IT FURTHER RESOLVED that the Department should facilitate the town hall meetings in such a manner so as to gather as much feedback and suggestions for improvement as possible and should consider the feedback received during the town hall meetings as they continue to develop the programs, policies, plans and procedures that support and regulate emergency medical services in Idaho.

Adopted by the Senate March 15, 2012

Adopted by the House March 23, 2012

(S.C.R. No. 132)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING ALL IDAHOANS TO USE THE YEAR OF MARCH 4, 2012, TO MARCH 3, 2013, TO BE A YEAR OF PREPARATION FOR THE IDAHO TERRITORIAL SESQUICENTENNIAL AND TO PLAN COMMEMORATION ACTIVITIES THAT WILL FOSTER A MORE MEANINGFUL EXPLORATION OF OUR TERRITORIAL ROOTS AND CREATE PERMANENT LEGACIES OF IDAHO'S TERRITORIAL SESQUICENTENNIAL.

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

WHEREAS, President Abraham Lincoln signed the act creating Idaho Territory on March 4, 1863; and

WHEREAS, March 4, 2013, marks the 150th anniversary of the creation of Idaho Territory; and

WHEREAS, President Lincoln's establishment of Idaho Territory came at a time of tremendous transformation for Idaho and our nation, when, within a remarkable nine-month period during the Civil War, he signed into law the Pacific Railway Act, issued the Emancipation Proclamation, and established the Idaho Territory, all three acts having a vital impact on the development of Idaho and the nation; and

WHEREAS, the territorial period in Idaho lasted for 27 years, until July 3, 1890, during which time the geographical boundaries and the political and economic foundations for the future State of Idaho were established; and

WHEREAS, the territorial period witnessed some of Idaho's most significant historical events that still impact the lives of Idahoans today, in-

cluding the establishment of Boise as the capital city, the creation of public school districts, and the adoption of the state constitution; and

WHEREAS, it is proper at the time of the 150th anniversary of the creation of the territory that Idahoans appreciate the territorial roots of contemporary Idaho and create lasting legacies for the future; and

WHEREAS, Idahoans today are proud of their storied history and demonstrate their continued spirit and perseverance in creating Idaho's future.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we encourage Idahoans to use the year of March 4, 2012, to March 3, 2013, to be a year of preparation for the Idaho Territorial Sesquicentennial and to plan commemoration activities that will foster a more meaningful exploration of our territorial roots and create permanent legacies of Idaho's Territorial Sesquicentennial.

Adopted by the Senate March 15, 2012

Adopted by the House March 23, 2012

(S.C.R. No. 133)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND HONORING SEVEN IDAHO SERVICEMEN WHO FOUGHT AND LOST THEIR LIVES IN IRAQ AND AFGHANISTAN WITHIN THE PAST YEAR.

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

WHEREAS, American service members, many of them Idahoans, or their family members have served their country honorably and at great personal sacrifice in the wars in Iraq and Afghanistan; and

WHEREAS, seven persons with Idaho ties paid the ultimate sacrifice within the past year; and

WHEREAS, U.S. Army Private First Class Robert Near was killed in action in Kandahar, Afghanistan, on January 7, 2011, and has ties to the Nampa area. Those who knew Robert Near from his grandmother to his Army commanders remember him as happy. His grandmother said of him that you could not make him mad and that "never in his life did he sass me." Robert and his father lived with his grandmother who would play video games with him and Robert would pull weeds for her in her yard. His father said Robert grew up with a healthy curiosity, a penchant for chess and a positive attitude. Robert moved to Nampa and studied computer programming and repair at the Centennial Job Corps. Robert is survived by his grandmother, father, a brother and three sisters; and

WHEREAS, U.S. Army Sergeant Nathan Beyers of Coeur d'Alene was killed in action on July 7, 2011, in Baghdad, Iraq. Nathan had been an Idaho resident for a number of years and his wife Vanessa Beyers and daughter, born November 11, 2010, live in the Coeur d'Alene area. An avid hunter, fisherman, camper and golfer, Nathan is most remembered as a dedicated family man. Recalling his visit home on leave a few months after the birth of their daughter, Vanessa said, "Nathan was proud of his job and of serving our country. He died doing something he loved and was such a brave person"; and

WHEREAS, U.S. Army Specialist Nicholas Newby of Coeur d'Alene was killed in action on July 7, 2011, in Baghdad, Iraq. Nicholas could play a variety of musical instruments, including guitar, bass guitar, saxophone and drums. He was intellectually curious and an avid reader. While in Iraq Nick was completing college courses via the Internet. His parents said Nick would do anything for anybody who needed his help. He would stick by his friends and never gave up on anybody. He also enjoyed his truck and loved

thrashing it and then fixing it. He had a great sense of humor ever since he was a kid. Once he saw his pregnant mother drinking orange juice and said, "Mom, you're getting orange juice all over the baby." Nick loved his family and everybody loved him. He is survived by his mother, father, stepmother, stepfather and two brothers; and

WHEREAS, U.S. Army Sergeant Devin Daniels of Council was killed in action on August 25, 2011, in Helmand Province, Afghanistan. Devin was raised in Council and graduated from Eagle High School. Devin was a new father and was able to be home on leave for the birth of his daughter in January of 2011. Devin also loved hunting in Idaho with his dad, and loved the outdoors in general. He told his mom, "You can take the boy out of Idaho, but you can never take Idaho out of the boy." Devin and his mother live by the motto "Winners never quit, and quitters never win." Devin is survived by his wife and daughter, his parents, grandparents, great-great grandmother, two brothers and a sister; and

WHEREAS, U.S. Army Specialist Robert Dyas of Nampa was killed in action on September 21, 2011, in Kandahar, Afghanistan. Robert loved the great outdoors, especially hunting and fishing. Robert said that he drew daily on the hunting instincts taught to him by his stepfather. Robert was reared and educated in Nampa where he blossomed into an outstanding young man. Robert attended elementary school through high school in Nampa, where he played baseball, starting with T-ball, on up through Skyview High School. He also played golf in high school where Nampa mayor Tom Dale was his mentor. Robert earned his GED and took night classes to become an electrician, and by day was an apprentice working for an electrical contractor. Robert had a sense of humor unlike any other. No matter who he was around, he could make you cry from laughing. He loved classic hot-rod cars and had just purchased a 1966 Pontiac LeMans on eBay. He dreamed of owning a small farm, starting a family with his fiancée and driving his Pontiac. Robert is survived by his father and mother, stepfather, grandfather, four sisters, a brother and his fiancée; and

WHEREAS, U.S. Army Sergeant Ryan Sharp of Idaho Falls was injured in Pa'in Kelay, Afghanistan, and passed on December 3, 2011, at Landstuhl Regional Medical Center in Landstuhl, Germany. Ryan was a graduate of Skyline High School in Idaho Falls. He enjoyed baseball, welding and spending time outdoors. Ryan will be remembered for his compassion, his kind heart and his love for his country. After enlisting in the U.S. Army in October 2002, Ryan proudly served his country on three tours of duty, one in Iraq, and he was serving his second tour in Afghanistan in support of Operation Enduring Freedom. His sister Michelle said, "Ryan was proud to be a soldier. He did it with exactness. He did his job with integrity." Ryan is survived by two daughters, a stepdaughter, his mother and father, two brothers, two sisters and paternal grandparents; and

WHEREAS, U.S. Marine Corps Lance Corporal Kenneth Cochran of Wilder was killed in action on January 15, 2012, in Helmand Province, Afghanistan. Kenneth was a graduate of Parma High School. While in school he was very active in the COSSA auto program, winning numerous awards. While in school, Kenneth won first place in the district's Patriot's Pen Contest. He placed second in the Veterans of Foreign Wars Regional Competition. Kenneth was outgoing and enthusiastic -- a genuinely nice young man, who didn't know a stranger. He was well-liked and admired by fellow students and his coworkers in the Marine Corps. He was always the first to work and the last to leave. Kenneth lived each day to the best of his ability, sharing his advanced skill set to benefit friends and coworkers. While in Afghanistan he was fortunate to have served some of his tour in a camp close to his older sister, Joyce, who is also serving in the theatre. He is survived by his father and mother who were both officers in the United States military, and his brother and two sisters.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of

Representatives concurring therein, that we honor and memorialize Private First Class Robert J. Near, Sergeant Nathan R. Beyers, Specialist Nicholas W. Newby, Sergeant Devin J. Daniels, Specialist Robert E. Dyas, Sergeant Ryan David Sharp and Lance Corporal Kenneth E. Cochran for their unselfish service to our country, fighting for our freedoms, and recognize, honor and memorialize their ultimate sacrifice.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized to send a copy of this Concurrent Resolution to the immediate families of the servicemen mentioned above.

Adopted by the Senate March 16, 2012

Adopted by the House March 19, 2012

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 29)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE SIXTY-FIRST 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 Second Regular Session of the Sixty-first Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 9, 2012.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first 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 9, 2012, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 9, 2012

Adopted by the Senate January 9, 2012

(H.C.R. No. 33)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE STATE TAX COMMISSION RELATING TO INCOME TAX ADMINISTRATIVE 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 a certain rule of the State Tax Commission relating to Income Tax Administrative Rules is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 35.01.01, State Tax Commission, Income Tax Administrative Rules, Section 263, Subsection 04, only, adopted as a pending rule under Docket Number 35-0101-1102, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 20, 2012

Adopted by the Senate February 27, 2012

(H.C.R. No. 34)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND ADOPTING THE IDAHO ENERGY PLAN APPROVED BY THE LEGISLATIVE COUNCIL INTERIM COMMITTEE ON ENERGY, ENVIRONMENT AND TECHNOLOGY ON JANUARY 10, 2012, AS THE STATE ENERGY PLAN.

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

WHEREAS, in 2011, the members of the First Regular Session of the Sixty-first Idaho Legislature adopted House Concurrent Resolution No. 4 which authorized the Legislative Council to appoint a committee to undertake and complete a study of the 2007 Integrated State Energy Plan that provides for the state's power generation needs and protects the health and safety of the citizens of Idaho and the products produced in this state, and to make any recommendations for necessary changes in both state law and the plan regarding energy in the state and to monitor other energy, environment and technology related issues; and

WHEREAS, the Legislative Council Interim Committee on Energy, Environment and Technology met on ten separate days and received testimony and input from stakeholders and citizens during the legislative interim in 2011; and

WHEREAS, the Legislative Council Interim Committee on Energy, Environment and Technology adopted the Idaho Energy Plan on January 10, 2012; and

WHEREAS, it is the desire of the Legislature to ratify this plan, while at the same time making it a living, breathing plan with the intent that it be revisited at a minimum of once every five years.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we formally adopt the Idaho Energy Plan as adopted by the Legislative Council Interim Committee on Energy, Environment and Technology on January 10, 2012, as the State Energy Plan and that the Legislature update this plan at a minimum of once every five years.

BE IT FURTHER RESOLVED that the Legislative Council Interim Committee on Energy, Environment and Technology shall cause to have printed 200 copies of the plan from funds from the Legislative Account. The Office of Energy Resources is requested to make an electronic copy of the plan available on its website.

Adopted by the House February 28, 2012

Adopted by the Senate March 6, 2012

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

HONORING AND COMMENDING STEVEN R. APPLETON FOR HIS PROFESSIONAL AND PERSONAL CONTRIBUTIONS TO THE STATE OF IDAHO.

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

WHEREAS, Steven R. Appleton, a dedicated husband, devoted father, community philanthropist and Chairman and CEO of Micron Technology, Inc., passed away on February 3, 2012; and

WHEREAS, Steve Appleton graduated from Boise State University in 1982, where he excelled in tennis, winning the Big Sky doubles championship his senior year, and received the Distinguished Alumni Award in 1995, the Silver Medallion Award in 2001 and an honorary doctorate from the University in 2007; and

WHEREAS, in 1983, Steve Appleton went to work for Micron Technology on the production line and quickly rose through the ranks to become CEO, president and chairman in 1994; and

WHEREAS, at the age of 34, Steve Appleton became the youngest CEO and Chairman of a Fortune 500 company; and

WHEREAS, in 1999, Steve Appleton established the Micron Foundation, which has donated millions to community, K-12 and higher education needs in the State of Idaho and has grown to become the largest corporate foundation based in Idaho; and

WHEREAS, from 2001 to 2004, in an effort to preserve jobs, Steve Appleton refused to take a salary until the company was once again profitable; and

WHEREAS, Steve Appleton grew Micron Technology into a global company employing more than 23,000 team members worldwide with locations in more than 20 countries in North America, Europe, Asia and the Middle East, and yielding annual revenues of \$8.7 billion; and

WHEREAS, Steve Appleton maintained the company's corporate headquarters in Idaho, ultimately becoming the last United States-based memory chip manufacturer; and

WHEREAS, Steve Appleton was an industry leader serving on the Board of Directors of the Semiconductor Industry Association, the World Semiconductor Council and the National Semiconductor Technology Council; and

WHEREAS, Steve Appleton was recognized for his professional accomplishments with the Intercollegiate Tennis Association's Achievement Award in 2005 and the Semiconductor Industry Association Robert N. Noyce award in 2011; and

WHEREAS, Steve Appleton created thousands of jobs in the Treasure Valley and was a prominent and humble donor to countless Idaho charitable and educational institutions; and

WHEREAS, Steve Appleton was an accomplished pilot, motocross racer, off-road racer, adventurer and one who embraced all life had to offer.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the lifetime achievements of Steven R. Appleton, a leader in the community, the State of Idaho and the global marketplace, be recognized, honored and commended.

Adopted by the House February 23, 2012

Adopted by the Senate March 9, 2012

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE BOARD OF VETERINARY MEDICINE RELATING TO RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE.

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 certain rule of the Board of Veterinary Medicine relating to Rules of the State of Idaho Board of Veterinary Medicine is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 46.01.01, Board of Veterinary Medicine, Rules of the State of Idaho Board of Veterinary Medicine, Section 100, Subsection 02.c, only, adopted as a pending rule under Docket Number 46-0101-1101, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 28, 2012

Adopted by the Senate March 8, 2012

(H.C.R. No. 39)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING SUPPORT OF IDAHO STUDENTS LEARNING IN THE ARTS.

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

WHEREAS, prosperous Idaho communities and profitable Idaho businesses require an educated workforce; and

WHEREAS, by 2018, 61% of all jobs in Idaho will require postsecondary education, growing at twice the rate of jobs that do not require postsecondary education; and

WHEREAS, state and national technological and industrial leadership in global business depends upon ongoing creativity; and

WHEREAS, attainment of that leadership requires a high level of preparation in reading, writing, speaking, mathematics, sciences, literature, history and the arts; and

WHEREAS, study in the arts improves reading and language skills, mathematical skills, critical thinking skills, social skills, motivation to learn and supports a positive school environment; and

WHEREAS, arts learning contributes to developing the creative capacities at the core of innovations that are vital to our economy; and

WHEREAS, students who took four years of arts coursework outperformed their peers who took one-half year or less of arts coursework by 58 points on the verbal portion and 38 points on the math portion of the SAT; and

WHEREAS, Idahoans are committed to our children's education; and

WHEREAS, Idaho parents, educators and other community-minded citizens demonstrate generosity of service and spirit toward the education of our children.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature supports sequential learning in the arts curriculum and the use of arts to enhance learning across the academic curriculum and encourages sharing resources across rural communities that have limited access to arts programs and that the Legislature supports utilizing innovative instructional modalities to enhance arts learning.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho supports the use of local resources such as arts organizations, teaching artists, volunteers and interns to enhance arts learning.

Adopted by the House February 29, 2012

Adopted by the Senate March 12, 2012

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

HONORING AND COMMENDING GENERAL DARRELL V. MANNING FOR HIS SERVICE TO THE STATE OF IDAHO UPON HIS RETIREMENT.

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

WHEREAS, Darrell V. Manning was born in Preston, Idaho, graduated from Utah State University in 1955, married Rochelle in 1955, enlisted in the Air Force in 1955, spending six years of active duty and twelve years in the Air Force Reserve, and served during the Cuban Missile and Dominican Republic crises and flew missions over Southeast Asia during the Vietnam Conflict; and

WHEREAS, Darrell V. Manning left the Air Force Reserve in 1973, but joined the Idaho National Guard the same year, and twelve years later was appointed Adjutant and Commanding General of the Guard. He earned twenty-five military ribbons, medals and citations and a myriad of awards for outstanding service, he logged 5,700 hours of flying in the military, 8,000 hours as a civilian pilot, flew 65 different aircraft and traveled more than two million miles as a pilot; and

WHEREAS, General Manning served four terms in the Idaho House of Representatives from District 34 in 1961, 1963, 1965 and 1967, he served on several committees including Insurance, Public Utilities and Banking, Ways and Means, Printing and Legislative Expense, Industry and Labor, Aeronautics, Civil Defense, Military and Veterans Affairs, served two terms as the minority leader, served one term in the Idaho Senate 1971-72 where he served on the Commerce and Banking, and Judiciary and Rules Committees and ran for Idaho's Second Congressional District Representative in 1968, and of that unsuccessful run, he has said that he won in losing as he didn't have to go to Washington, D.C.; and

WHEREAS, General Manning served Idaho under eight governors, Robert E. Smylie, Don Samuelson, Cecil Andrus, John V. Evans, Phil Batt, Dirk Kempthorne, Jim Risch and C.L. "Butch" Otter, held posts in the Division of Aeronautics, Idaho Transportation Department, State Board of Education, the Idaho Department of Health and Welfare, the Division of Financial Management, the Idaho Military Division, and the Bureau of Disaster Services (now the Bureau of Homeland Security), was one of just two nonlegislative members of the 1973 Executive Reorganization Commission that streamlined state government by combining and eliminating state agencies, and served as first director of the Idaho Transportation Department in 1974, leaving in 1985, when he was appointed Adjutant General of the Idaho National Guard; and

WHEREAS, in 2005, General Manning was appointed to the Transportation Board and during his tenure as director and a board member he was president of the Western Association of State and Highway Transportation Officials, the American Association of State and Highway Transportation Officials and the Transportation Research Board; and

WHEREAS, with his legislative service and later, General Manning became an expert in parliamentary procedure both in Mason's Manual and Robert's Rules of Order; and

WHEREAS, General Manning announced his retirement on November 28, 2011, and Governor Otter said of him on his retirement, "Few people in Idaho history have had public service careers of the length, breadth, quality or impact of General Manning's. He is a state treasure, and one that I and generations of our citizens have appreciated and revered. I'm grateful that he's agreed to remain available to lend his advice, experience and good judgment to crafting Idaho's future."

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we honor and commend General Darrell V. Manning for his service to the State of Idaho and wish him well in his retirement.

BE IT FURTHER RESOLVED that the Chief Clerk shall deliver a copy of this resolution to General Darrell V. Manning.

Adopted by the House March 5, 2012

Adopted by the Senate March 23, 2012

(H.C.R. No. 47)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING AND APPROVING THE DEPARTMENT OF ADMINISTRATION TO ENTER INTO AN AGREEMENT OR AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO PROVIDE FINANCING TO CONSTRUCT A NEW MULTI-LEVEL PARKING FACILITY AND PROVIDING THIS AUTHORIZATION CONSTITUTES PRIOR LEGISLATIVE APPROVAL AND AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO EVALUATE THE CURRENT PARKING PERMIT AND FEE STRUCTURE.

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

WHEREAS, there are 2,300 state employees in the Capitol Mall, 1,600 parking permits sold, but only 1,236 actual parking spaces available in the Capitol Mall, this shortage of available parking having been identified in numerous reports beginning in 1987; and

WHEREAS, each legislative session the parking problems are magnified for state employees, legislators and visiting members of the public; and

WHEREAS, there is currently a waiting list of approximately 200 names for a reserved parking space in the Capitol Mall that requires a wait of between five and eight years to receive a reserved permit; and

WHEREAS, the Capitol Mall Master Plan has identified convenient locations in the Capitol Mall for a second multi-level parking facility; and

WHEREAS, there are efforts underway to remodel and renovate the Capitol Annex facility that will further add to the Capitol Mall parking needs; and

WHEREAS, the recently completed Capitol Restoration and Expansion Project has enabled more of Idaho citizens to participate in the legislative process, drawing more visitors to the Capitol Mall; and

WHEREAS, the timing is favorable for bonding a state construction project with historically low interest rates and favorable construction costs; and

WHEREAS, this construction project would provide new jobs and a significant boost to the local economy.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature authorizes and approves the Department of Administration to enter into an agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, to provide financing to construct a new multi-level parking facility, and that this resolution shall constitute prior legislative approval in accordance with Section 67-6410, Idaho Code.

BE IT FURTHER RESOLVED that the Legislature supports an evaluation of the current parking permits and fees charged by the Department of Administration, which have not been adjusted since 1976, as a means of support for the maintenance and operation of parking facilities.

Adopted by the House March 13, 2012

Adopted by the Senate March 26, 2012

(H.C.R. No. 48)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND CONGRATULATING MEMBERS OF THE IDAHO EDUCATION ASSOCIATION ON THEIR ORGANIZATION'S 120TH ANNIVERSARY.

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

WHEREAS, the Idaho Education Association (IEA) was founded 120 years ago, on March 3, 1892; and

WHEREAS, the IEA has long been the principal organization championing universal, tuition-free, quality public education for Idaho's children; and

WHEREAS, the Idaho Education Association consistently works for high student and teacher standards and innovation in the classroom; and

WHEREAS, the IEA has been the foremost voice for adequate, stable and equitable funding for Idaho's public schools; and

WHEREAS, educators are often the first to notice when a child needs help and members of the Idaho Education Association have given nearly a million dollars in assistance to their neediest students through their donations to the IEA Children's Fund.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that members of the Idaho Education Association be congratulated on their organization's 120th anniversary and their service to the teaching profession and to the children of Idaho.

Adopted by the House March 5, 2012

Adopted by the Senate March 12, 2012

(H.C.R. No. 49)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND HONORING MILDRED RINKER BAILEY.

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

WHEREAS, Mildred Rinker Bailey, now remembered as the "First Girl Singer" who performed with a big band in America, was an enrolled member of the Coeur d'Alene Tribe and raised on the family farm near De Smet, Idaho, on the Coeur d'Alene Indian Reservation; and

WHEREAS, Mildred Bailey's mother, Josephine, also a Coeur d'Alene Tribal Member, was an accomplished pianist and spent many hours instructing Mildred and her brother, Al, on singing and playing music; and

WHEREAS, at the age of twelve, Mildred and her family moved to Spokane, Washington, where she and her brother, Al, became lifelong friends with a local singing drummer they recruited named Harry (Bing) Crosby; and

WHEREAS, in his 1953 autobiography Bing Crosby recalled "I was lucky in knowing the great jazz and blues singer Mildred Bailey so early in life. She made records which are still vocal classics and she taught me much about singing and interpreting popular songs"; and

WHEREAS, Mildred Bailey moved to Los Angeles, California, in the early 1920s where she began singing in cabarets around Hollywood and helped Bing Crosby find work with a traveling jazz show that Crosby later credited with launching his career; and

WHEREAS, Mildred Bailey landed a spot with the Paul Whiteman Orchestra, the most famous big band in America, where Bailey became the "First Girl Singer" to perform with a big band, a groundbreaking achievement that opened the door of opportunity for later jazz greats; and

WHEREAS, her notable recordings included popular songs of the day such as "Rockin' Chair," "Honeysuckle Rose," "When Day is Done," "'Long About Midnight," "Thanks for the Memory," "I Don't Stand a Ghost of a Chance With You," "Darn That Dream," and many more; and

WHEREAS, Mildred Bailey was one of the most popular jazz singers of her era, voted by national magazines as the "Top Female Jazz Vocalist" multiple times and was inducted into the Big Band and Jazz Hall of Fame in 1989; and

WHEREAS, the U.S. Postal Service commemorated her historic contribution to jazz by issuing a 29-cent stamp with her picture on it in 1994, joining Billie Holiday and Bessie Smith in receiving that recognition.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and honor Mildred Rinker Bailey as a jazz pioneer who blazed a trail that hundreds of other women have now traveled, and we will never forget her contributions to the American jazz and blues musical idiom.

BE IT FURTHER RESOLVED that Mildred Rinker Bailey should be appropriately recognized for such achievements by organizations dedicated to the recognition of outstanding artist contributions to jazz music.

Adopted by the House March 19, 2012

Adopted by the Senate March 23, 2012

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 Sixty-first Legislature of the State of Idaho, Second Regular Session thereof, which convened on January 9, 2012, and which adjourned on March 29, 2012, 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 twenty-fifth day of April, 2012.

Ben Yursa
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. 2011-04RELATING TO FUNCTIONS OF THE DIVISION OF HUMAN RESOURCES

WHEREAS, the supreme executive power of the State is vested in the Governor by Article IV, Section 5 of the Constitution of the State of Idaho; and

WHEREAS, civil administrative departments and divisions have been created for the Governor to exercise a portion of his executive authority to ensure that the laws of the State are faithfully executed; and

WHEREAS, Title 67, section 5301 of the Idaho Code, established the Division of Human Resources in the Office of the Governor; and

WHEREAS, the Division of Human Resources is authorized and directed by the laws of the State of Idaho to administer a personnel system for classified Idaho employees; and

WHEREAS, an opportunity exists to improve the means whereby classified employees of the State of Idaho are examined, selected, retained and promoted on the basis of merit, thus effecting economy and efficiency in the administration of state government;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me by the Constitution and the laws of this State do hereby direct the Division of Human Resources to:

1. Enter into an agreement with the Department of Labor whereby the Department will:
 - a. Conduct analysis of salary surveys at the direction of the Division of Human Resources; and
 - b. Maintain an automated system for recruiting and tracking applicants for classified positions in state government.
2. Enter into an agreement with and delegate to the Division of Professional-Technical Education the authority to train certain state employees on human resource related topics applicable to all state agencies including, but not limited to, supervision of employees, employee evaluations, dispute resolution and stress management.
3. Delegate human resource functions to any state agency if the Division of Human Resources determines that the agency meets criteria developed by the Division.

All remaining duties and responsibilities for the state personnel system, including, but not limited to, the responsibility to promulgate administrative rules, shall be retained by the Division of Human Resources.



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 20th day of April in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA

SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-05AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, tremendous financial obligations and expenses have been incurred by various departments, agencies, and counties in responding to and assisting in efforts to deal with the extreme threat to public safety, health, property and the environment posed by declared disaster emergencies in Idaho; and

WHEREAS, all funds in the Disaster Emergency Account created by title 46, section 1005A of the Idaho Code have or soon will be expended; and

WHEREAS, funds in the General Fund are available to transfer to the Disaster Emergency Account under the requirements set forth in 46-1005A(2)(b); and

WHEREAS, it is my judgment, as Governor of the State of Idaho, that any moneys transferred from the General Fund up to the limits provided below will not be required to support the current year's appropriations.

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, 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 as follows:

1. The State Controller is directed to transfer money from the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than \$2 million dollars (\$2,000,000) be transferred for the purposes of this executive order from the General Fund to the Disaster Emergency Account.
2. In no event may the revenues made available under this Executive Order exceed one percent (1%) of the annual appropriation of the General Fund Account moneys for this fiscal year.



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 2nd day of May in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-06PROVISIONS FOR STATE COOPERATION WITH FEDERAL INSURANCE ADMINISTRATION UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED

WHEREAS, the development of the state's floodplains has occurred in a manner that may increase potential flood losses despite efforts to control floods; and

WHEREAS, national, state, and local studies of areas and property subject to flooding predict increases in flood damage potential and flood losses, despite continuing investment in flood protection structures; and

WHEREAS, the State of Idaho maintains programs for the construction of buildings, roads, and other facilities and annually acquires and disposes of lands in flood hazard areas, with resultant influence to patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e. mudflow) areas, and flood-related erosion areas in the state; and

WHEREAS, the Department of Water Resources is the state agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 and regulations set forth in 44 CFR section 60.25; and

WHEREAS, the Federal Emergency Management Agency has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program, which participation depends on state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e. mudflow) areas, and flood-related erosion areas in the state;

NOW, THEREFORE, I, C.L. "Butch" Otter, 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 as follows:

1. The Department of Water Resources is hereby designated to assist in the implementation of 44 CFR section 60.25, Rules and Regulations of the Federal Insurance Administration and will encourage a broad and unified effort to achieve planned use and development of the state's floodplains and, in particular, to lessen the risk of flood losses in connection with state lands and installation and state-financed or supported improvement.
2. Under the leadership and direction of the Department of Administration, all state agencies directly responsible for the construction of buildings, structures, roads, or other facilities shall preclude the unsafe or unnecessary use of floodplains in connection with such facilities; in the event of construction in the floodplain, management criteria set forth in 44 CFR section 60.3, 60.4, and 60.5 of the National Flood Insurance Regulations shall apply; flood-proofing measures shall be applied to existing facilities in order to reduce flood damage potential.
3. All state agencies responsible for the administration of grant or loan programs involving the construction of building, structures, roads or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future state expenditures for flood protection and flood disaster relief, shall preclude the unsafe or unnecessary use of floodplains in such connection.
4. All state agencies responsible for the disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future state expenditures for flood protection and flood disaster relief, shall notify those instrumentalities and private interest that such hazards exist.
5. All state agencies responsible for programs which affect land use planning, including state permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved.
6. In evaluating flood hazard potential, all state agencies shall coordinate their work with the Department of Water Resources to assure that the most up-to-date data and/or methods of analysis are utilized.
7. As may be permitted by law, the head of each state agency shall issue appropriate rules and regulations to govern the carrying out of the pro-

visions of Section 1 of this order by his agency to be coordinated with the Department of Administration.



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 16th day of June in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA

SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-07

AUTHORIZING THE ADMINISTRATION OF THE STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM BY THE IDAHO HOUSING AND FINANCE ASSOCIATION

WHEREAS, Congress has passed the Small Business Jobs Act of 2010 (the "Act"), which authorized federal funding for the State Small Business Credit Initiative Program ("SSBCI Program"); and

WHEREAS, Idaho expects to receive federal money under this program to provide increased access to credit for small businesses in Idaho; and

WHEREAS, the United States Department of Treasury (the "Treasury") has promulgated guidelines for States and others concerning the expenditure of federal funds under the SSBCI Program; and

WHEREAS, the Idaho Housing and Finance Association (the "IHFA"), an independent public body corporate and politic and instrumentality of the State of Idaho, has the expertise to administer and implement the SSBCI Program.

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho do hereby order:

1. The authorization of the Idaho Housing and Finance Association to apply for, to administer and oversee the SSBCI Program in Idaho on behalf of the State of Idaho (the "State"), to receive federal funds from the Treasury and disburse the same for the Program and, on behalf of the State, to execute one or more agreements with the Treasury with respect to the SSBCI Program.
2. The SSBCI Program shall be administered in accordance with the Act and the Treasury guidelines.
3. The IHFA may appoint an advisory council with representatives of small businesses, banking institutions, economic development organizations, the Idaho Department of Commerce and the Idaho Department of Finance to provide advice and assistance for the SSBCI Program.



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 16th day of June in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-08

THE LEWIS AND CLARK TRAIL COMMITTEE

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, the trail passes through multiple state and federal jurisdictions and private property, it is important that Idaho have an official organization to promote responsible recreational use and tourism associated with the trail and assure the protection and stewardship of this historic resource; and

WHEREAS, it is important to continue the coordination of activities related to the Lewis and Clark Trail;

NOW, THEREFORE, I, C.L. "Butch" Otter, 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 and designate the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on preserving and managing the Lewis and Clark Trail and activities relating to the Lewis and Clark Expedition.

The Committee shall:

1. Coordinate and organize activities to gain regional and national recognition of the historic significance of the Lewis and Clark expedition and trail in Idaho;
2. Promote appropriate development and recreation in the vicinity of the Lewis and Clark Trail route as well as protection of the trail and associated historic sites;
3. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the trail and history of the Lewis and Clark Expedition; and
4. Serve as the official liaison with other Lewis and Clark Trail states, the national Lewis and Clark Trail Heritage Foundation, Inc. and federal departments, bureaus, and committees concerned with the Lewis and Clark Trail, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission that existed from 1964 to 1969.

The Committee shall consist of no more than nine (9) people who are appointed by the Governor and serve at his pleasure.

The voting membership of the Committee shall include:

1. The President of the Idaho Chapter of the Lewis and Clark Trail Heritage Foundation;

2. A representative of the Idaho State Historical Society;
3. A representative of the Idaho Department of Parks and Recreation;
4. The Governor's designee; and
5. Five Idaho residents with a demonstrated interest in Lewis and Clark history.

In addition, each of the following organizations will be invited to appoint one non-voting, ex-officio member:

Nez Perce Tribal Council
 Shoshone Bannock Tribal Council
 Bureau of Land Management
 National Park Service
 USDA Forest

The Committee shall elect its own Chairperson and have regular meetings as determined by the majority of the Committee and called by the Chairperson.

Members will serve without compensation except for travel expenses. Operating funds will be from the sale of Lewis and Clark license plates and commemorative medallion sales.



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 19th day of July in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
 SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-09

THE GOVERNOR'S ROADLESS RULE IMPLEMENTATION COMMISSION

WHEREAS, Idaho's 250 inventoried roadless areas comprise approximately 9.3 million acres in 12 national forests across Idaho; and

WHEREAS, Idaho has more inventoried roadless acres than any other state in the coterminous forty-eight; and

WHEREAS, Idaho's inventoried roadless areas provide pristine habitat for protected species and a significant benefit to Idaho's economy; and

WHEREAS, Idaho roadless areas provide excellent recreational opportunities for hunters, fishermen and outdoor enthusiasts, as well as a significant source for drinking and irrigation water throughout the Northwest; and

WHEREAS, Idaho counties, communities and interested parties provided input during the drafting of management recommendations for inventoried roadless areas in Idaho; and

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho, do hereby order the following:

1. The creation of the Governor's Roadless Rule Implementation Commission (Commission).

2. The members of the Commission shall be appointed by and serve at the pleasure of the Governor through calendar year 2013.
 - i. The Commission shall be composed of 15 members, representing the various geographic areas of the State.
 - ii. Commission members shall be appointed from the following three categories:
 1. Five individuals who:
 - a. Participated as a member of the Roadless Area Conservation National Advisory Committee (RACNAC); or
 - b. Represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities; or
 - c. Represent energy or mineral development interests; or
 - d. Represent the commercial timber industry; or
 - e. Hold federal a grazing permit or other federal land use permits.
 2. Five individuals representing:
 - a. A nationally, regionally or locally recognized environmental organization; or
 - b. Dispersed recreational activities; or
 - c. Archaeological and historical interest; or
 - d. Nationally or regionally recognized wildlife or sportsmen's interest groups.
 3. Five individuals who:
 - a. Hold State elected office or their designee; or
 - b. Hold county or local elected office; or
 - c. Represent an American Indian Tribe within the State of Idaho; or
 - d. Represent the public at large.
 - iii. The Chair and Vice Chair of the Commission shall be selected by a majority vote of the members. The chair and vice chair shall serve at the pleasure of the Governor. Vacancies in the chair or vice chair shall be filled by a majority vote of the commission at the next meeting.
3. The Commission shall, in partnership with the U.S. Forest Service, Department of Agriculture and Tribes of Idaho ensure the implementation of the Inventoried Roadless Area Rule for Idaho.



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 19th day of July in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-10

ESTABLISHING THE IDAHO HEALTH PROFESSIONS EDUCATION COUNCIL
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2009-07

WHEREAS, Idaho faces a severe shortage in all health professions; and

WHEREAS, Idaho currently ranks 40th in physicians per capita and has the 6th oldest physician population among the 50 states; and

WHEREAS, Idaho does not train a sufficient number of physicians, especially in primary care, to meet the needs of its citizens; and

WHEREAS, in addition to nursing, shortages in such fields as pharmacy, dentistry, allied health, primary care and mental health are acute; and

WHEREAS, the State has a vested interest in finding workable and realistic solutions to its healthcare provider shortages; and

WHEREAS, a sufficient supply of healthcare professionals in all disciplines is necessary to address the healthcare of Idaho citizens; and

WHEREAS, to address the shortages the Governor's Select Committee on Health Care recommended to the Governor the creation of the Idaho Health Professions Education Council;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of this state, do hereby order:

1. The creation of the Idaho Health Professions Education Council (Council);
2. Members of the Council shall be appointed by and serve at the pleasure of the Governor;
3. The chair of the Council shall be appointed by and serve at the pleasure of the Governor;
4. The members of the Council shall include but are not limited to:
 - a. Representatives from the health industry;
 - b. Representatives from health organizations;
 - c. Representatives for Idaho colleges/universities;
 - d. Representatives from the public at large;
5. The Council's responsibilities shall be:
 - a. Conduct health workforce analyses;
 - b. Assess Idaho's capacity for training healthcare professionals;
 - c. Advise the Governor and legislators on healthcare workforce issues;
 - d. Develop healthcare workforce objectives for the State of Idaho and provide policy recommendations for achieving the objectives;
 - e. Recommend strategies to address healthcare provider shortages in rural locations; and
 - f. Develop strategies to encourage public/private partnerships to increase the number of healthcare providers in Idaho;
6. Committee members will serve without compensation; however, they shall receive reimbursement for the actual costs of attending Committee meetings from the Idaho Department of Labor; and
7. The Council shall submit an annual report of its activities to the Governor.



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 19th day of July in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-fifth and of the Statehood of Idaho the one hundred twenty-first.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-11CONTINUING THE IDAHO CRIMINAL JUSTICE COMMISSION

WHEREAS, it is in the best interest 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 depredations 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, under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and the Crime Control Act of 2005, each state is encouraged to develop and implement a competitive mechanism for awarding certain federal grant funds; and

WHEREAS, Idaho's current criminal justice efforts and initiatives require clear strategic planning and continued coordination;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho do hereby establish the Idaho Criminal Justice Commission.

1. The Idaho Criminal Justice Commission ("Commission") shall consist of 26 members. The Commission members representing the judiciary will serve in a non-voting, advisory capacity. The Commission's membership shall be as follows:
 - a. A representative from the Governor's Office;
 - b. The Attorney General or his designee;
 - c. Two members from the Idaho Senate as designated by the President Pro Tempore;
 - d. Two members from the Idaho House of Representatives as designated by the Speaker;
 - 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 Administrator of the Office of Drug Policy;
 - i. A representative from the Idaho Department of Education;
 - j. The Executive Director of the Idaho Commission of Pardons and Parole;
 - k. The Director of the Idaho Department of Health and Welfare;
 - l. The Administrative Director of the Courts;
 - m. Three (3) representatives from the judiciary as designated by the Chief Justice;
 - n. One (1) representative from the Idaho Prosecuting Attorney's Association;
 - o. One (1) representative from the Office of the Idaho State Appellate Public Defender;
 - p. One (1) representative from the Idaho Commission on Hispanic Affairs;
 - q. One (1) representative from the Idaho Sheriffs' Association;
 - r. One (1) representative from the Idaho Chiefs of Police Association;
 - s. The Executive Director of the Idaho Association of Counties; and

- t. Two (2) citizens at large who with special consideration given to individuals within disciplines related to the purpose of the Commission.
2. The purpose of the Commission shall be to provide policy-level direction and to promote efficient and effective use of resources, based on best practices or evidenced-based practices, for matters related to the State's criminal justice system. To that end it shall:
 - a. Identify critical challenges facing the criminal justice system and recommend strategies to resolve them by;
 - i. Developing and adopting a three-year strategic plan to be reviewed annually;
 - ii. Analyzing the long-range needs of the criminal justice system;
 - iii. Assessing the cost-effectiveness, return on investment, and performance measures of the use of state and local funds in the criminal justice system;
 - 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 the 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 improve cooperation and coordination at all levels of the criminal justice system.
 - e. Research and evaluate best practices, and evidenced-based practices, and use findings to influence decisions on policy.
3. Unless stated otherwise, Commission members shall be appointed by the Governor. All Commission members appointed by the Governor serve at the pleasure of the Governor.
4. The Governor may, at any time, increase the number of voting and non-voting members of the Commission.
5. The Commission members shall serve a term of four (4) years.
6. 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 of the Chair and Vice-Chair shall be one (1) year. The Chair and the Vice-Chair may succeed themselves as approved by the Governor.
7. The Commission shall receive administrative staff support from the State agencies represented on the Commission.
8. The Commission will meet no less than four times annually.
9. The Commission may appoint sub-committees consistent with the needs of the Commission to address pertinent issues that merit more in-depth consideration.
10. Commission members will serve without compensation or reimbursement for expenses, including related travel and per diem to attend Commission meetings.
11. The Grant Review Council ("Council") shall be established under the Commission and is charged with the responsibility to disburse grant funding appropriated under provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, of the Violence Against Women Act of 1994, and other such federal grant programs as may come within the purview of Planning, Grants, and Research of the Idaho State Police with the overall mission of enhancing the efficiency and effectiveness of the criminal justice system in Idaho.

- a. The Council shall consist of thirteen (13) members of the Idaho Criminal Justice Commission for the purpose of assisting the Idaho State Police in its distribution of grant funds. The Council membership shall be as follows:
 - i. The Attorney General or his or her designee;
 - ii. The Administrative Director of the Courts;
 - iii. The Director of the Idaho Department of Correction;
 - iv. The Director of the Idaho State Police;
 - v. The Director of the Idaho Department of Juvenile Corrections;
 - vi. The Administrator of the Office of Drug Policy;
 - vii. One (1) representative from the Office of the Idaho State Appellate Public Defender;
 - viii. One (1) representative from the Idaho Prosecuting Attorneys Association;
 - ix. The Executive Director of the Idaho Association of Counties;
 - x. Two (2) citizens at large;
 - xi. One (1) representative from the Idaho Sheriffs' Association;
 - xii. One (1) representative from the Idaho Chiefs of Police Association;
- b. In addition, the Council shall consist of the following seven (7) members appointed by the Chair of the Commission upon recommendation by the Commission:
 - i. One (1) representative from the Idaho Council on Domestic Violence;
 - ii. One (1) representative from a statewide advocacy agency;
 - iii. One (1) prosecuting attorney;
 - iv. One (1) representative from the juvenile justice system;
 - v. One (1) representative from the misdemeanor probation system;
 - vi. One (1) Chief of Police;
 - vii. One (1) Sheriff;
- c. The Chair of the Council shall be a representative of a local agency and appointed by vote of the members of the Council and shall serve a term of four (4) years. The Chair will report to the Commission not less than annually on the activities, actions, and decisions of the Council regarding the distribution of grant funds.
- d. Each member of the Council shall be entitled to one vote in the matters before them.
- e. No member may participate in a vote for a direct award of funds in which the member receives personal pecuniary benefits, as defined by Idaho Code. Unless prohibited by Federal grant restriction, when a member has authority over an entity or agency which has applied for a direct award of funds, the member shall disclose the relationship to the Council. Upon disclosure of such relationship, the member may vote upon the award unless the member requests to be excused.
- f. Participation by Council members (or their designees) in the scoring and evaluation of the individual grant applications is required. Members not participating in the scoring and evaluation process will not be entitled to vote on the awarding of the application.
- g. Meetings of the Council shall be convened as determined necessary by the Chair of the Council, Chair of the Commission, or Planning, Grants, and Research.

- h. The principal staff functions of the Council shall be located with the Idaho State Police, Planning, Grants, and Research.
- i. Members of the Council will receive travel reimbursement in accordance with Planning, Grants, and Research and the Idaho State Police policy and procedures.
- j. The Council will establish by-laws in accordance with guidance provided by the Bureau of Justice Assistance and the Idaho State Police, Planning, Grants, and Research, and consistent with the Commission's long-term strategies.
- k. Members of the Council will receive training provided by Planning, Grants, and Research and in conjunction with the Commission.
- l. Members of the Council will meet at least once a year to assist in strategic planning efforts with members of the Commission and Planning, Grants, and Research. The Council shall develop a strategic funding plan consistent with the statewide strategic planning efforts of the Commission.



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 19th day of July in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-12

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY (CLEARINGHOUSE) TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE SURFACE TRANSPORTATION BOARD'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969; AND DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE AGENCY TO REPRESENT THE STATE ON MATTERS PERTAINING TO RAILROADS BEFORE THE SURFACE TRANSPORTATION BOARD

WHEREAS, the issues of railroad abandonments, acquisitions, consolidations, and sales are significant to the State of Idaho and particularly its more sparsely populated areas; and

WHEREAS, it is the policy of the State of Idaho to promote the development and viability of railroad transportation within the State; and

WHEREAS, the State of Idaho has significant interest in maintaining and promoting rail access to Idaho communities for vital goods, services, and markets;

WHEREAS, the Surface Transportation Board (STB) under the National Environmental Policy Act of 1969 (NEPA) requires railroads operating within the State of Idaho to serve notice of certain required actions upon a designated State agency; and

WHEREAS, title 62, section 424 of the Idaho Code vests the Idaho Public Utilities Commission with the authority to make findings and represent the State of Idaho before the STB.

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho do hereby order as follows:

To designate the Idaho Public Utilities Commission to represent the State on matters pertaining to railroads before the Surface Transportation Board and to receive notices of environmental and energy matters from railroads operating within the State of Idaho, as provided under the applicable federal statutes and regulations.

I further direct all State agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate with the Public Utilities Commission on all matter pertaining to railroads. The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all State agency submissions to the STB prior to transmittal.



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 14th day of September in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-13

RENEWING THE CERTIFIED PUBLIC MANAGER PROGRAM

WHEREAS, the State of Idaho recognizes the value of investing in its human resources; and

WHEREAS, the government agencies of Idaho have identified the critical 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, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho do hereby continue 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 de-

velopment of government managers to enhance the quality and productivity of services delivered to the citizens of Idaho.



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 14th day of September in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA

SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-14

ESTABLISHING THE OFFICE OF ENERGY
RESOURCES WITHIN THE OFFICE OF THE GOVERNOR
REPEALING AND REPLACING EXECUTIVE ORDER 2007-15

WHEREAS, energy production, generation, transmission and conservation are vital to Idaho; and

WHEREAS, long-term energy supplies are critical to the well-being and future of Idaho; and

WHEREAS, it is the responsibility of state government to explore energy production and employ measures to reduce wasteful, uneconomical and unnecessary uses of energy, which diminish Idaho's energy resources; and

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me by the Constitution and the laws of the State of Idaho do hereby order:

1. Continuation of the "Office of Energy Resources" within the Office of the Governor.
2. The term "energy" as used in this Executive Order shall include, but is not be limited to, electricity, oil, natural gas, bio-energy, renewable energy, transportation fuels, and nuclear.
3. The Governor shall appoint an administrator (hereafter "Administrator") to lead the Office of Energy Resources (Office). The Administrator shall serve at the pleasure of the Governor and shall be subject to confirmation by the Idaho Senate. The Administrator shall be the official in Idaho designated to oversee energy planning, policy and coordination, and to fulfill the duties provided in this Executive Order.
4. Employees of the Office shall retain the employment status they enjoyed prior to the promulgation of this Executive Order. The aforementioned employees shall retain their status until they accept promotion or a new job title at which time their status shall change to non-classified. Employees of the Office hired after the effective date of this Executive Order shall be non-classified for the purposes of Chapter 53, Title 67 of the Idaho Code.
5. The duties, powers and authorities of the Office of Energy Resources shall include:
 - a) Advising the Governor, the Legislature and other public officials of the State's energy requirements, supply, transmission, management, conservation and efficiency efforts;

- b) Coordinating and cooperating with federal and state agencies, departments and divisions, and local governments on issues concerning the State's energy requirements, supply, transmission, management, conservation and efficiency efforts;
- c) Pursuing and accepting federal delegation of responsibility and authority for matters that affect the energy supply, transmission, management, consumption and conservation by the citizens of Idaho other than energy codes and standards for buildings and those matters under the jurisdiction of the Idaho Public Utilities Commission;
- d) Assisting state agencies, departments, divisions and local governments to secure funding where available for energy conservation projects and renewable energy resource opportunities;
- e) Promoting cost effective energy conservation and utilization of renewable energy resources through public information, education, and other activities;
- f) Administering low-interest energy loan programs and other forms of financial assistance for eligible projects to further promote energy efficiency efforts and overall reduced energy consumption in Idaho;
- g) Entering into other agreements or contracts and do that which is necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.
6. The Office of Energy Resources may accept private contributions, state or federal funds, funds from other public agencies or any other source. The moneys shall be expended solely for the purposes provided in this Executive Order and accounted for as provided by law.
7. All orders, regulations, contracts and licenses which are in effect at the time this Executive Order is signed shall continue in effect according to their terms until modified or terminated.
8. The duties, responsibilities and authority of this Executive Order shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law; nothing in this Executive Order shall be construed to provide or imply any regulatory authority by the Office of Energy Resources over public utilities that are subject to the jurisdiction of the Idaho Public Utilities Commission.

This Executive Order shall cease to be effective one year 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 18th day of October in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2011-15ESTABLISHING THE EARLY CHILDHOOD COORDINATING COUNCIL

WHEREAS, early childhood development is directly related to economic development because it improves the quality of the future workforce and creates tremendous cost savings for society; and

WHEREAS, the advancement of early childhood development has had a positive impact on Idaho families and children; and

WHEREAS, through these initiatives, children are healthier and better prepared to enter Idaho's school systems; and

WHEREAS, greater coordination will allow for a more accurate inventory of existing services, programs and initiatives along with an increased understanding of the services available for families and children; and

WHEREAS, the coordination of early childhood initiatives, both public and private, is a priority of the State of Idaho; and

WHEREAS, the consolidation of the Interagency Coordinating Council (Idaho Code Title 16, Chapter 1), and the Early Care and Learning Cross Systems Task Force (Executive Order No. 2004-01) and the Head Start State Advisory Council (2008) will establish greater coordination, communication, and efficiency of early childhood services and initiatives of the State of Idaho; and

WHEREAS, it is in the best interest of families and children in Idaho to build a sustainable infrastructure for early childhood;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho do hereby order the creation of the "Early Childhood Coordinating Council" (Council) within the Office of the Governor.

1. The Council shall be designated as the state early childhood council and responsible for developing a sustainable and coordinated statewide-plan. This plan will achieve mutually defined goals for early childhood with evidence-based outcomes and approval and support from stakeholders, as well as the Governor, and will:
 - a. Facilitate the activities of the Council, which will establish an ongoing communication network between state agencies, policy-makers, families, stakeholders and communities for the purpose of planning and implementing a coordinated system of early childhood in Idaho;
 - b. Develop multiagency state partnerships among critical stakeholders;
 - c. Compile resources and identify information on the current best practices in early childhood systems building;
 - d. Provide a comprehensive statewide mapping of existing early childhood programs and resources, as well as existing gaps, every three to five years;
 - e. Align data from multiple systems to follow indicators of well-being for young children and their families.
 - f. Support partnerships to align current initiatives in support of a comprehensive system of early childhood professional development;
 - g. Increase public awareness of quality early childhood programs as a critical part of the foundation to promote healthy families and communities; and
 - h. Align policy and funding systems to develop and support integrated early childhood systems development.
2. The Council shall perform all duties and functions of Title 16, Chapter 1 with expanded and strengthened roles and responsibilities as follows:

- a. Expand the council's scope from birth to 3 years old to all children from birth through 5 years old and their families;
 - b. Develop, implement and sustain a statewide early childhood strategic plan that maintains the framework of health, social and emotional development, child development, parent education, family support and self sufficiency, and systems development;
 - c. Recognize language changes to meet federal guidelines for the Individuals with Disabilities Education Act (IDEA) such as service coordination, social and emotional development, adaptive skills and developmental delay;
 - d. Expand membership to meet federal requirements for IDEA and integration of Council members to build geographical, cultural, political, professional and family diversity with assurance of representation of all children and families to include:
 - i. Parents of young children to include at least 20 percent of Council membership who are parents of young children with developmental delays or disabilities;
 - ii. At least 20 percent private providers of early intervention services;
 - iii. At least one (1) member of the Idaho Legislature;
 - iv. At least one (1) person involved in personnel preparation;
 - v. The superintendent of public instruction, or designee;
 - vi. A physician or health care professional skilled in early intervention;
 - vii. A representative of the State Medicaid agency;
 - viii. A representative of the State child welfare agency responsible for foster care;
 - ix. A representative of the State agency responsible for children's mental health;
 - x. A representative of the State agency responsible for maternal and child health;
 - xi. A representative of the State governance of insurance;
 - xii. A representative of the office of the Coordinator of Education of the Homeless;
 - xiii. A representative of the Idaho Migrant Council or Migrant Head Start Program;
 - xiv. A representative of the State agency responsible for child care;
 - xv. A Head Start Association or program representative;
 - xvi. A representative of the Head Start Collaboration office;
 - xvii. A representative of the Idaho Infant Toddler Program;
 - xviii. A representative of the Regional Early Childhood Coordinating Committees; and
 - xix. Others at the discretion of the Governor.
 - e. Strengthen Regional Early Childhood Committee membership, roles and responsibilities to expand the outreach of and respond to the Early Childhood Coordinating Council.
3. The Council may accept funds from private, federal, state or public agencies and any other sources in accordance with state law. The moneys shall be used to support the statewide effort in the development and sustainability of this council and early childhood programs and services.
- a. In the event of Federal dollars are no longer available for Early Childhood Comprehensive Services and Head Start State Collaboration, scope and Council membership will be limited and aligned with the current requirements of IDEA Part C within 30 days of loss of funding.

- b. In the event that federal laws change that require the existence of an Interagency Coordinating Council and Early Childhood Advisory Council, this Executive Order shall terminate within 30 days of the effective federal date.
4. Council members shall be appointed by the Governor and staffed by the Department of Health and Welfare.
 5. The Council shall assure nationally acceptable standards are used statewide for the coordination and provision of early childhood programs and services.
 6. The Council shall build and support partnerships that will maximize the use of funding streams and close the gaps in early childhood systems.
 7. The Council shall offset staffing and operating expenses from any funding it receives.



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 8th day of November in the year of our Lord 2011, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-01

ESTABLISHING THE GOVERNOR'S LEADERSHIP IN
NUCLEAR ENERGY (LINE) COMMISSION

WHEREAS, for more than 60 years, the men and women of Idaho National Laboratory (INL) have played a leading role in carrying out President Eisenhower's vision of producing peaceful power from atomic energy; and

WHEREAS, the researchers working at INL brought historic and scientific distinction to the state as the place where a usable amount of electricity was first generated from nuclear energy in 1951, and where a total of 52 pioneering nuclear reactors were designed and built; and

WHEREAS, leadership and vision over the past 60 years, including negotiation of binding agreements between the State of Idaho and INL, have guided successful cleanup efforts of legacy waste at the site, helped transition INL into the nation's lead laboratory for research, development and deployment of nuclear technologies and solidified Idaho's position as one of only eight states to host a multi-program national laboratory; and

WHEREAS, the federal government has established a Blue Ribbon Commission on America's Nuclear Future (BRC) to provide advice, evaluate alternatives, and make recommendations for a new plan to address existing fuel cycle technologies and research and development (R&D) programs, many of which are or can be conducted by INL; and

WHEREAS, today's Idaho National Laboratory performs critical work aimed at solving our state's and nation's most pressing energy, security and environmental challenges and actively involves all three of Idaho's universities in carrying out its mission; and

WHEREAS, the State of Idaho and its citizens have a special interest in seeing INL succeed owing to the scientific, educational and economic benefits it brings to its host state; and

WHEREAS, recent evaluations by Idaho's Commerce and Labor departments have identified a robust and expansive nuclear industries sector in the state - anchored by INL - that consists of more than 20 firms that employ thousands of Idahoans, contribute millions of dollars to Idaho's general fund and help realize our state's Project 60 goals; and

WHEREAS, strong leadership is necessary today to ensure the continued vitality of INL and Idaho's growing nuclear industries sector;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby create the Leadership in Nuclear Energy (LINE) Commission.

1. The LINE Commission will make recommendations to the Governor on policies and actions of the State of Idaho to support and enhance the long-term viability and mission relevance of Idaho National Laboratory.
2. The LINE Commission will also:
 - a. Identify opportunities to ensure the unique research capabilities of INL continue to play an important role in our economic growth and the nation's energy security;
 - b. Review Idaho's efforts to provide a nuclear workforce development program and make recommendations for improvement;
 - c. Identify any possible long-term issues relating to operations at INL;
 - d. Identify additional opportunities and investments that can be made in the Center for Advanced Energy Studies in furtherance of the mission of INL;
 - e. Identify infrastructure needs (roads, rail, transmission, information technology) at INL;
 - f. Review the final report of the Blue Ribbon Commission and identify appropriate roles and opportunities for the enhancement of research and development at the INL, while adhering to the long-standing position of the State of Idaho under the 1995 Settlement Agreement that the state will not be a repository for spent nuclear fuel or high-level waste; and
 - g. Evaluate policy options for strengthening the broader nuclear industries sector in Idaho.
3. The duties of the Commission are solely advisory in nature.
4. The members of the LINE Commission shall be appointed by and serve at the pleasure of the Governor. Members will include, but are not limited to:
 - a. The Administrator of the Office of Energy Resources (OER) or his designee;
 - b. The Director of the Department of Commerce (DOC) or his designee;
 - c. The Director of the Department of Labor or his designee;
 - d. The presidents of the universities of the state or their designee(s);
 - e. A member of the Idaho House of Representatives;
 - f. A member of the Idaho Senate;
 - g. A mayor;
 - h. A county commissioner;
 - i. A representative of the current R&D contractor at INL;
 - j. A representative from a private-sector nuclear industries company; and
 - k. A member of the public.
5. The Governor will appoint the chair or co-chairs of the LINE Commission.

6. The Commission will be staffed by the Office of the Governor.
7. The Commission may request consultation, information and technical expertise from Directors or their designees of state agencies regarding environmental requirements, state natural resources, transportation, emergency response and law enforcement issues, including but not limited to the Department of Environmental Quality (DEQ), the Idaho Department of Water Resources (IDWR), the Idaho Department of Fish and Game (IDFG), the Idaho Department of Transportation (IDT), the Idaho Department of Lands (IDL), the Idaho Bureau of Homeland Security (BHS) and the Idaho State Police (ISP).
8. The Commission may request comments, information and technical expertise from the American Indian Tribes of Idaho and federal agencies, including but not limited to the U.S. Department of Energy (DOE) and the U.S. Navy.
9. The LINE Commission will provide its recommendations to the Governor no later than January 1, 2013.



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 1st day of February in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-02

ESTABLISHING THE GOVERNOR'S SAGE-GROUSE TASK FORCE

WHEREAS, the greater sage-grouse inhabits significant portions of the sage-steppe habitat in Idaho;

WHEREAS, the State of Idaho currently enjoys viable and widespread populations of the species;

WHEREAS, the State of Idaho by and through the Sage-grouse Advisory Committee (SAC) and the Local Working Groups (LWGs) has a long track record of successful engagement in managing and conserving the species and its habitat;

WHEREAS, the State by and through the involvement of the SAC and the LWGs developed a state-wide management plan for the species in 2006 and amended in 2009 (2009 Plan);

WHEREAS, the sage-grouse has been the subject of several petitions to list, federal regulatory actions and multiple rounds of litigation regarding its status under the Endangered Species Act (ESA);

WHEREAS, on March 23, 2010, the U.S. Fish and Wildlife Service (Service) determined the species warrants listing over all of its range, including Idaho, but is precluded by higher-priority listing actions;

WHEREAS, due to the Service's decision, the sage-grouse is currently considered a "candidate" species under the ESA;

WHEREAS, on February 2, 2012, the United States District Court for the District of Idaho ruled the Service must reevaluate the status of the species under the ESA by September 30, 2015;

WHEREAS, in response to this decision, the Secretary of the Interior has invited the eleven (11) western states impacted by a potential listing of the species to develop state-specific regulatory mechanisms to conserve the species and preclude the need to list under the ESA;

WHEREAS, the development of a state-specific regulatory mechanism in Idaho will be critical in demonstrating to the Service the species does not warrant federal protection;

WHEREAS, the Bureau of Land Management (BLM) is currently implementing national Instruction Memoranda to guide interim management of public lands and to develop sage-grouse conservation measures for incorporation into the agency's existing Resource Management Plans (RMPs) by September 2014;

WHEREAS, the development of a state-specific regulatory mechanism, consistent with the objectives of this Executive Order, may allow the State the opportunity to be exempted from the applicability of these Instruction Memoranda guiding interim management of public lands within Idaho;

WHEREAS, the development of a state-specific regulatory mechanism will enable the BLM to incorporate the State's plan as an alternative in its environmental analysis pursuant to the National Environmental Policy Act (NEPA);

WHEREAS, it is vital to the interests of the State to develop a state-specific regulatory mechanism as the listing of the species would adversely impact the economy of Idaho, including the ability to generate revenues from private property and State endowment lands;

WHEREAS, the listing of the species would have a significant impact on the State's custom, culture and way of life; and

WHEREAS, development of the State's regulatory mechanism must be driven by the most current scientific information, input from a variety of stakeholders and aimed at conserving the species and its habitat while maintaining predictable and multiple uses of private, state and public lands.

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby create the Sage-Grouse Task Force.

1. The creation of the Governor's Sage-Grouse Task Force:

A. The members of the Governor's Sage-Grouse Task Force (Task Force) shall be appointed by and serve at the pleasure of the Governor through calendar year 2012.

i. The Task Force shall be composed of fifteen (15) members, representing the various geographic areas of the State within the range of the species.

ii. The Office of the Governor will chair this entity.

iii. The Office of Species Conservation and the Idaho Department of Fish and Game will staff this entity.

B. The Task Force members shall be appointed from the following categories:

i. Individuals who:

* Represent agricultural interests; or

* Represent energy or mineral development interests.

ii. Individuals representing:

* A local working group; or

* A nationally, regionally or locally recognized environmental organization; or

* Nationally or locally recognized wildlife or sportsmen's groups.

iii. Individuals who:

* Hold State elected office; or

- * Hold county elected office; or
- * Represent the public at large.

2. Duties of the Task Force:

- A. Provide the Governor recommendations on policies and actions, using the 2009 Plan and other on-going activities as a backdrop, for developing a state-wide regulatory mechanism to preclude the need to list the species;
- B. The recommendations must be based on the following objectives and/or criteria:
 - i. Conserve the species and its habitat while maintaining predictable and multiple uses of private, state and public lands;
 - ii. Identify and designate key/core sage-grouse habitat based on the biological needs of the species;
 - iii. Tailor the management recommendations to the import of the habitat and is attuned to the interests of the State;
 - iv. Address the following primary threats to the species as identified by the Service:
 - * Habitat fragmentation due to wildfire and invasive species;
 - * Conversion of habitat for agriculture or urbanization; and
 - * Energy development/infrastructure.
 - v. Address the following secondary threats to the species as identified by the Service:
 - * Disease/West Nile virus;
 - * Management issues related to livestock grazing;
 - * Collisions with fences and power lines;
 - * Mining;
 - * Prescribed fire and range treatments;
 - * Water development; and
 - * Conifer invasion.
 - vi. Identify opportunities for pro-active sage-grouse habitat enhancement projects; and
 - vii. Recognize, encourage and incentivize land use practices that are actively maintaining or improving sage-grouse habitat as evidenced by improvements in habitat quality, active lek routes or stable/increasing populations of the species.
- C. The duties of the Task Force are solely advisory.
- D. The Task Force will provide its recommendations to the Governor no later than May 31, 2012.
- E. Technical Expertise:
 - i. The Task Force may request consultation, information and technical expertise from Directors or their designees of state agencies regarding the biological needs of the species, activities on state, federal and private lands potentially impacted by the status of the species, and requirements of the ESA and other relevant statutory requirements, including but not limited to the Office of Species Conservation, the Idaho Department of Fish and Game, the Idaho Department of Lands, the Office of Energy Resources, the Idaho State Department of Agriculture and the Idaho Department of Parks and Recreation.
 - ii. The Task Force may request comments, information and technical expertise from the American Indian Tribes of Idaho, the universities of the State, federal agencies, including but not limited to the Service, the BLM, the U.S.

Forest Service and the Natural Resources Conservation Services, and members of the public.



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 9th day of March in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

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Bd = Board	Com = Commission
Comm = Committee	Dept = Department
DEQ = Department of Environmental Quality	
Dist = District	Div = Division
F&G = Fish and Game	Govt = Government
H&W = Health and Welfare	PUC = Public Utilities Commission
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41-114A	Referred to	Ch.226 -	621
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41-914	Amended	Ch.156 -	432
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41-1003	Amended	Ch.226 -	619
41-1004	Amended	Ch.226 -	620
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41-1083	New Section Added	Ch.226 -	621
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41-1085	New Section Added	Ch.226 -	622
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42-1203	Amended	Ch.274 -	772
42-1204	Amended	Ch.274 -	773
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43-1106	Amended	Ch.143 -	378
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43-1118	Amended	Ch.143 -	378
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43-1123	New Section Added	Ch.122 -	339
43-1124	New Section Added	Ch.122 -	339
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63-803	New Section Added	Ch.339 -	942
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63-3025	Amended	Ch.321 -	880
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63-3029B	Amended	Ch. 40 -	123
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63-3067	Amended	Ch. 14 -	31
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APPENDIX

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LIEUTENANT GOVERNOR Brad Little (R)

SECRETARY OF STATE Ben T. Ysursa (R)

STATE CONTROLLER Donna Jones (R)

STATE TREASURER Ron G. Crane (R)

ATTORNEY GENERAL Lawrence Wasden (R)

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 Home 362-5058 FAX 362-5058
 Email: cbayer@house.idaho.gov
 Medical Research Scientist Spouse - Nicole
 CO-CHAIR-Joint Legislative Oversight/JLOC
 Business; Local Government; Revenue & Taxation

22 - BOISE & ELMORE COUNTIES

Tim Corder (R) Senate 4th Term
 357 S.E. Corder Dr., Mountain Home 83647
 Home 587-8562 Bus 599-0427 FAX 587-5871
 Email: tcorder@senate.idaho.gov
 Trucking Company Spouse - LaVonne
 CHAIR-Local Government & Taxation
 Agricultural Affairs; Transportation

Richard "Rich" Wills (R) House Seat A 5th Term
 P.O. Box 602, Glenns Ferry 83623
 Home 366-7408 Bus 484-0403 FAX 366-2457
 Email: rwills@house.idaho.gov
 Business Owner, Opera Theatre/ Spouse - Connie
 Communications Consulting Business
 CHAIR-Judiciary, Rules, & Administration
 Education; Transportation & Defense

Pete Nielsen (R) House Seat B 5th Term
 4303 S.W. Easy St., Mountain Home 83647
 Home 832-4382 Bus 832-4382 FAX 832-4382
 Email: pnielsen@house.idaho.gov
 Life & Health Insurance Agent Spouse - Connie
 Education; Environment, Energy, & Technology; Judiciary, Rules, & Administration

23 - OWYHEE & TWIN FALLS COUNTIES

Bert Brackett (R) Senate 2nd Term
 Served 1 term, House 2007-2008
 48331 Three Creek Highway, Rogerson 83302
 Home 857-2217
 Email: bbrackett@senate.idaho.gov
 Rancher Spouse - Paula
 VICE CHAIR-Transportation
 Finance/JFAC; Resources & Environment

Jim Patrick (R) House Seat A 3rd Term
 2231 E. 3200 N., Twin Falls 83301
 Home 733-6897 Bus 733-6897 FAX 734-8968
 Email: jpatrick@house.idaho.gov
 Farmer Spouse - Afton
 Agricultural Affairs; Appropriations/JFAC; Business;

Stephen Hartgen (R) House Seat B 2nd Term
 1681 Wildflower Lane, Twin Falls 83301
 Home 733-5790 Bus 733-5790 FAX 733-5790
 Email: shartgen@house.idaho.gov
 Business Consultant/Economic Development Spouse - Linda
 VICE CHAIR-Commerce & Human Resources
 Education; Environment, Energy, & Technology; Joint Millennium Fund Committee

24 - TWIN FALLS COUNTY

Lee Heider (R) Senate 1st Term
 1631 Richmond Dr., Twin Falls 83301
 Home 734-8864
 Email: lheider@senate.idaho.gov
 Contractor/Broker Spouse - Jan
 Finance/JFAC; Health & Welfare; Resources & Environment

Leon E. Smith (R) House Seat A 7th Term
 1381 Galena Dr., Twin Falls 83301
 Home 733-0843 Bus 736-2006
 Email: lsmith@house.idaho.gov
 Lawyer/Mediator Spouse - Janice Mittleider-Smith
 Judiciary, Rules, & Administration; Revenue & Taxation; Transportation & Defense

Sharon L. Block (R) House Seat B 6th Term
 1093 Lakewood Dr., Twin Falls 83301
 Home 734-6360 FAX 736-7187
 Email: sblock@house.idaho.gov
 Property Mgr./Former Teacher Spouse - D.W. "Bill"
 CHAIR-Commerce & Human Resources
 Education; Environment, Energy, & Technology

LEGISLATORS BY DISTRICT (Continued)

25 - BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

Michelle Stennett (D) Senate 2nd Term
 MINORITY CAUCUS CHAIR
 P.O. Box 475, Ketchum 83340
 Home 726-8106
 Email: mstennett@senate.idaho.gov
 Self-employed Spouse - Clint
 Commerce & Human Resources; Joint Legislative Oversight/JLOC;
 Resources & Environment; State Affairs

Wendy Jaquet (D) House Seat A 9th Term
 P.O. Box 783, Ketchum 83340
 Home 726-3100 FAX 726-0674
 Email: wjaquet@house.idaho.gov
 Conference Tour Guide & College Instructor Spouse - Jim
 Appropriations/JFAC; Environment, Energy, & Technology; Joint
 Millennium Fund Committee; Judiciary, Rules, & Administration

Donna Pence (D) House Seat B 4th Term
 1960 U.S. Highway 26, Gooding 83330
 Home 934-5302
 Email: dpence@house.idaho.gov
 Retired Teacher/Tree Farmer Spouse - Lew
 Agricultural Affairs; Education; Legislative Council; Resources &
 Conservation

26 - JEROME & MINIDOKA COUNTIES

Dean L. Cameron (R) Senate 11th Term
 1101 Ruby Dr., Rupert 83350
 Home 436-5624 Bus 436-4424 FAX 436-3776
 Email: dcameron@senate.idaho.gov
 Owner, Insurance & Investment Agency Spouse - Linda
 CHAIR-Finance
 CO-CHAIR-JFAC
 Commerce & Human Resources; Resources & Environment

John A. "Bert" Stevenson (R) House Seat A 8th Term
 1099 N. 400 W., Rupert 83350
 Home 532-4524 FAX 532-4720
 Email: jstevenson@house.idaho.gov
 Semi-retired Farmer Spouse - Elaine
 CHAIR-Resources & Conservation
 Agricultural Affairs; State Affairs

Maxine T. Bell (R) House Seat B 12th Term
 194 S. 300 E., Jerome 83338
 Home 324-4296
 Email: mbell@house.idaho.gov
 Retired Farmer/Retired School Librarian Spouse - H. Jack
 CHAIR-Appropriations
 CO-CHAIR-JFAC
 Joint Legislative Oversight/JLOC

27 - BINGHAM, CASSIA, ONEIDA & POWER COUNTIES

Denton Darrington (R) Senate 15th Term
 302 S. Hwy. 77, Declo 83323
 Home 654-2712
 Email: ddarrington@senate.idaho.gov
 Farmer/Teacher Spouse - Virgene
 CHAIR-Judiciary & Rules
 Health & Welfare; Joint Millennium Fund Committee; State Affairs

Scott Bedke (R) House Seat A 6th Term
 ASSISTANT MAJORITY LEADER
 P.O. Box 89, Oakley 83346
 Home 862-3619
 Email: sbedke@house.idaho.gov
 Rancher Spouse - Sarah
 Resources & Conservation; Revenue & Taxation; Transportation & Defense;
 Ways & Means

Fred Wood (R) House Seat B 3rd Term
 P.O. Box 1207, Burley 83318-0828
 Home 312-1056 FAX 677-3136
 Email: fwood@house.idaho.gov
 Physician/Medical Director, Cassia Regional Spouse - Amy
 Medical Center
 Appropriations/JFAC; Health & Welfare; Resources & Conservation

28 - BINGHAM COUNTY

Steve Bair (R) Senate 3rd Term
 947 W. 200 S., Blackfoot 83221
 Home 684-5209 FAX 684-5209
 Email: sbair@senate.idaho.gov
 Farmer/Investor Spouse - Lori Kae
 VICE CHAIR-Resources & Environment
 Finance/JFAC; Legislative Council; Transportation

Dennis M. Lake (R) House Seat A 8th Term
 830 Taber Rd., Blackfoot 83221
 Home 684-4967
 Email: dlake@house.idaho.gov
 Agribusiness Spouse - Luann
 CHAIR-Revenue & Taxation
 CO-CHAIR-Joint Millennium Fund Committee
 Agricultural Affairs; Commerce & Human Resources

Jim Marriott (R) House Seat B 3rd Term
 799 W. 200 S., Blackfoot 83221
 Home 684-4863
 Email: jmarriott@house.idaho.gov
 Retired Medical Business Administrator/ Small Spouse - Janice
 Cattle Operation
 VICE CHAIR-Local Government
 Commerce & Human Resources; Education

LEGISLATORS BY DISTRICT (Continued)

29 - BANNOCK COUNTY

Diane Bilyeu (D) Senate 3rd Term
 Served 1 term, Senate 1969-1970
 11076 N. Philbin, Pocatello 83202
 Home 237-3158
 Email: dbilyeu@senate.idaho.gov
 Retired
 Finance/JFAC; Local Government & Taxation; Transportation

Spouse - Chick

31 - BEAR LAKE, BONNEVILLE, CARIBOU, FRANKLIN & TETON COUNTIES

John Tippetts (R) Senate 1st Term
 Served 6 terms, House 1988-2000
 610 Red Canyon Road, Montpelier 83254
 Home 847-2876 Bus 547-1823
 Email: jtippetts@senate.idaho.gov
 Public Affairs Manager
 Commerce & Human Resources; Resources & Environment

Spouse - Nancy

Ken Andrus (R) House Seat A 4th Term
 6948 E. Old Oregon Trail Rd., Lava Hot Springs 83246
 Home 776-5380 Bus 244-2057
 Email: kandrus@house.idaho.gov
 Cattle & Sheep Rancher
 CHAIR-Agricultural Affairs
 Resources & Conservation; State Affairs

Spouse - Colleen

Marc Gibbs (R) House Seat A 2nd Term
 632 Highway 34, Grace 83241
 Home 425-3385 FAX 425-3329
 Email: mgibbs@house.idaho.gov
 Farmer
 Environment, Energy, & Technology; Resources & Conservation; Revenue & Taxation

Spouse - Bonne

Jim Guthrie (R) House Seat B 1st Term
 425 W. Goodenough Rd., McCammon 83250
 Home 254-3605 Bus 254-9205
 Email: jguthrie@house.idaho.gov
 Rancher/Business Owner
 Business; Health & Welfare; State Affairs

Spouse - Barbara

Thomas F. Loertscher (R) House Seat B 4th Term
 Served 8 terms, House 1987-2002
 1357 Bone Rd., Iona 83427
 Home 522-3072 FAX 522-1141
 Email: tloertscher@house.idaho.gov
 Farmer/Rancher
 CHAIR-State Affairs
 Commerce & Human Resources; Health & Welfare

Spouse - Linda

30 - BANNOCK COUNTY

Edgar J. Malepeai (D) Senate 5th Term
 MINORITY LEADER
 585 S. 19th, Pocatello 83201
 Home 232-2702
 Email: emalepeai@senate.idaho.gov
 Retired Educator
 Education; Legislative Council; State Affairs

Spouse - Brenda K.

32 - BONNEVILLE COUNTY

Dean M. Mortimer (R) Senate 2nd Term
 Served 1 term, House 2007-2008
 7403 S. 1st E., Idaho Falls 83404
 Home 528-6377 Bus 524-9000 FAX 524-9999
 Email: dmortimer@senate.idaho.gov
 Builder/Developer
 VICE CHAIR-Education
 Finance/JFAC; Joint Legislative Oversight/JLOC; Judiciary & Rules

Spouse - Judy

Roy Lacey (D) House Seat A 1st Term
 13774 W. Trail Creek Rd., Pocatello 83204
 Home 232-7053 Bus 447-6712
 Email: rlacey@house.idaho.gov
 Idaho Foodbank
 Agricultural Affairs; Resources & Conservation

Spouse - Renée

Janice K. McGeachin (R) House Seat A 5th Term
 6121 N. 5th W., Idaho Falls 83401
 Bus 523-1718 FAX 529-9936
 Email: jmcgeachin@house.idaho.gov
 Business Owner
 CHAIR-Health & Welfare
 Joint Millennium Fund Committee; State Affairs

Spouse - James J.

Elaine Smith (D) House Seat B 6th Term
 3759 Heron Ave., Pocatello 83201
 Home 237-1462
 Email: esmith@house.idaho.gov
 Retired
 Business; Environment, Energy, & Technology; Joint Legislative Oversight/JLOC; State Affairs

Spouse - Rich

Erik Simpson (R) House Seat B 2nd Term
 6117 N. 5th W., Idaho Falls 83401
 Home 542-5447 FAX 542-5447
 Email: esimpson@house.idaho.gov
 Communications/Public Involvement Specialist
 Commerce & Human Resources; Environment, Energy, & Technology; State Affairs

Spouse - Fawn

LEGISLATORS BY DISTRICT (Continued)

33 - BONNEVILLE COUNTY

Bart M. Davis (R) Senate 7th Term
 MAJORITY LEADER
 2638 Bellin Circle, Idaho Falls 83402
 Home 529-4993 Bus 522-8100 FAX 522-1334
 Email: cmdavis@senate.idaho.gov
 Attorney Spouse - Marion
 Judiciary & Rules; Legislative Council; State Affairs

Jeff Thompson (R) House Seat A 2nd Term
 1739 Peggy's Lane, Idaho Falls 83402
 Home 524-7367 FAX 524-7367
 Email: jthompson@house.idaho.gov
 Businessman/Educator Spouse - Chanin
 Appropriations/JFAC; Business; Environment, Energy, & Technology;

Linden B. Bateman (R) House Seat B 1st Term
 Served 5 terms, House 1977-1986
 170 E. 23rd St., Idaho Falls 83404
 Home 524-0927
 Email: lbateman@house.idaho.gov
 Semi-retired Educator Spouse - Deann
 Education; Judiciary, Rules, & Administration; Transportation & Defense

34 - FREMONT & MADISON COUNTIES

Brent Hill (R) Senate 6th Term
 PRESIDENT PRO TEMPORE
 1010 S. 2nd E., Rexburg 83440
 Home 356-7495
 Statehouse: Ph 332-1300
 Email: bhill@senate.idaho.gov
 Certified Public Accountant Spouse - Julie
 CO-CHAIR-Legislative Council
 Local Government & Taxation; State Affairs

Mack G. Shirley (R) House Seat A 5th Term
 443 W. Moran View, Rexburg 83440-5177
 Home 356-3831
 Email: mshirley@house.idaho.gov
 Retired College Administrator Spouse - Shanna
 VICE CHAIR-Education
 Agricultural Affairs; Judiciary, Rules, & Administration

Dell Raybould (R) House Seat B 6th Term
 3215 N. 2000 W., Rexburg 83440
 Home 356-6837 Bus 356-6837
 Email: draybould@house.idaho.gov
 Farmer/Businessman Spouse - Vera
 CHAIR-Environment, Energy, & Technology
 Resources & Conservation; Revenue & Taxation

35 - BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON & LEMHI COUNTIES

Jeff C. Siddoway (R) Senate 3rd Term
 1764 E. 1200 N., Terreton 83450
 Home 663-4585 FAX 663-4428
 Email: jsiddoway@senate.idaho.gov
 Rancher Spouse - Cindy
 CHAIR-Agricultural Affairs
 Local Government & Taxation; Resources & Environment

JoAn E. Wood (R) House Seat A 15th Term
 3778 E. 500 N., Rigby 83442
 Home 745-7846 FAX 745-8420
 Email: jawood@house.idaho.gov
 Partner, Ranch/Farm Spouse - Tom
 CHAIR-Ways & Means
 Resources & Conservation; Revenue & Taxation; Transportation & Defense

Lenore Hardy Barrett (R) House Seat B 10th Term
 P.O. Box 347, Challis 83226
 Home 879-2797
 Email: lbarrett@house.idaho.gov
 Mining/Investments Spouse - Robert
 CHAIR-Local Government
 Resources & Conservation; Revenue & Taxation

