

IN THE SENATE

SENATE BILL NO. 1040

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 6-1601, IDAHO CODE,
2 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
3 AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
4 ERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1602,
5 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL
6 CORRECTIONS; AMENDING SECTION 16-1620, IDAHO CODE, TO MAKE CODIFIER'S
7 CORRECTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
8 16-1621, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECH-
9 NICAL CORRECTIONS; AMENDING SECTION 16-1644, IDAHO CODE, AS ENACTED
10 BY SECTION 7, CHAPTER 347, LAWS OF 2016, TO REDESIGNATE THE SECTION;
11 AMENDING SECTION 16-1644, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER
12 284, LAWS OF 2016, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-862,
13 IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 20-213A,
14 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL
15 CORRECTIONS; AMENDING SECTION 20-533A, IDAHO CODE, TO PROVIDE A COR-
16 RECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
17 23-902, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION
18 30-29-1601, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
19 SECTION 31-1433, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
20 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-518, IDAHO CODE, TO
21 PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 56, TITLE 33, IDAHO
22 CODE, AS ENACTED BY SECTION 1, CHAPTER 143, LAWS OF 2016, TO REDESIGNATE
23 THE CHAPTER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 58,
24 TITLE 33, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 192, LAWS OF 2016,
25 TO REDESIGNATE THE CHAPTER, TO MAKE A CODIFIER'S CORRECTION, TO PROVIDE
26 A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING
27 SECTION 39-3133, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND
28 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3134, IDAHO CODE,
29 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
30 AMENDING CHAPTER 93, TITLE 39, IDAHO CODE, AS ENACTED BY SECTION 1,
31 CHAPTER 168, LAWS OF 2016, TO REDESIGNATE THE CHAPTER; AMENDING SECTION
32 41-307, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-
33 TION 41-332, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING
34 SECTION 41-342, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND
35 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-343, IDAHO CODE,
36 TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS;
37 AMENDING SECTION 41-2803, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
38 ERENCE; AMENDING SECTION 41-2804, IDAHO CODE, TO PROVIDE CORRECT CODE
39 REFERENCES; AMENDING SECTION 41-3824, IDAHO CODE, TO PROVIDE CORRECT
40 CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
41 41-4934, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-
42 TION 41-6104, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
43 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-2913, IDAHO CODE, TO
44 MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 55-115, IDAHO CODE, TO
45

1 MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
 2 ING SECTION 61-313, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO
 3 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-602D, IDAHO CODE, TO
 4 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
 5 AMENDING SECTION 63-602GG, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
 6 ENCE; AMENDING SECTION 67-7702, IDAHO CODE, TO PROVIDE A CORRECT CODE
 7 REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7711,
 8 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL
 9 CORRECTIONS; AMENDING SECTION 67-8903, IDAHO CODE, TO PROVIDE A CORRECT
 10 CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION
 11 74-107, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION, TO PROVIDE A COR-
 12 RECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

14 SECTION 1. That Section 6-1601, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 6-1601. DEFINITIONS. As used in this act:

17 (1) "Charitable corporation or organization or charitable trust" means
 18 a corporation or organization or charitable trust including any community
 19 chest, fund, or foundation organized and operated exclusively for reli-
 20 gious, charitable, scientific, testing for public safety, literary, or
 21 educational purposes, or to foster national or international amateur sports
 22 competition (but only if no part of its activities involve the provision of
 23 athletic facilities or equipment), or for the prevention of cruelty to chil-
 24 dren or animals, no part of the net earnings of which inures to the benefit of
 25 any private shareholder or individual, no substantial part of the activities
 26 of which is carrying on propaganda, or otherwise attempting, to influence
 27 legislation.

28 (2) "Claimant" means any party to a civil action making a claim for re-
 29 lief, legal or equitable, compensatory or noncompensatory.

30 (3) "Economic damages" means objectively verifiable monetary loss, in-
 31 cluding, but not limited to, out-of-pocket expenses, loss of earnings, loss
 32 of use of property, cost of replacement or repair, cost of obtaining sub-
 33 stitute domestic services, loss of employment, medical expenses, or loss of
 34 business or employment opportunities.

35 (4) "Future damages" means noneconomic damages and economic damages to
 36 be incurred after entry of a judgment.

37 (5) "Noneconomic damages" means subjective, nonmonetary losses
 38 including, but not limited to, pain, suffering, inconvenience, mental an-
 39 guish, disability or disfigurement incurred by the injured party; emotional
 40 distress; loss of society and companionship; loss of consortium; or destruc-
 41 tion or impairment of the parent-child relationship.

42 (6) "Nonprofit corporation or organization" means a charitable corpo-
 43 ration or organization or charitable trust; any other corporation organized
 44 or existing under chapter 30, title 30, Idaho Code, or an equivalent provi-
 45 sion of the law of another state; or an unincorporated association; which
 46 corporation, organization, charitable trust or unincorporated association
 47 is organized and existing exclusively for nonprofit purposes, and which:

1 (a) Either is tax exempt under section 501(c)(3) of the Internal Rev-
2 enue Code or regularly bestows benefits to the community at large, and

3 (b) No part of the net income of which is distributable to its members,
4 directors or officers.

5 (7) "Personal injury" means a physical injury, sickness or death suf-
6 fered by an individual.

7 (8) "Property damage" means loss in value or in use of real or personal
8 property, where such loss arises from physical damage to or destruction of
9 such property.

10 (9) "Punitive damages" means damages awarded to a claimant, over and
11 above what will compensate the claimant for actual personal injury and prop-
12 erty damage, to serve the public policies of punishing a defendant for outra-
13 geous conduct and of deterring future like conduct.

14 SECTION 2. That Section 16-1506, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child
17 shall be commenced by the filing of a petition together with a copy thereof.
18 The petition shall be initiated by the person or persons proposing to adopt
19 the child and shall be filed with the district court of the county in which
20 said person or persons reside. If the adoption arises from a child protec-
21 tive act case, the petition shall be filed in the court having jurisdiction
22 over the child protective act case unless that court relinquishes jurisdic-
23 tion over the adoption proceeding. The petitioners shall have resided and
24 maintained a dwelling within the state of Idaho for at least six (6) consec-
25 utive months prior to the filing of a petition. The petition shall set forth
26 the name and address of the petitioner or petitioners, the name of the child
27 proposed to be adopted and the name by which the person to be adopted shall be
28 known if and when adopted, the degree of relationship of the child, if any,
29 to the petitioner or petitioners and the names of any person or agency whose
30 consent to said adoption is necessary. At the time fixed for hearing such
31 petition, the person adopting a child, and the child adopted, and the spouse
32 of the petitioner if a natural parent of the child, must appear before the
33 court of the county wherein the petition was filed. The petitioner shall at
34 such time execute an agreement to the effect that the child shall be adopted
35 and treated in all respects as his own lawful child should be treated.

36 (2) If the adoption arises from a child protective act case, then, in
37 addition to the petition filed pursuant to subsection (1) of this section,
38 the department of health and welfare shall file the permanency plan prepared
39 pursuant to section 16-1620 or 16-1622, Idaho Code, associated with the
40 child protective act case. If the court determines that the person proposing
41 to adopt the child is not the proposed adoptive parent named in the perma-
42 nency plan, then the judge shall stay the proceeding pending the department
43 preparing and filing an amended permanency plan pursuant to section 16-1620
44 or 16-1622, Idaho Code, and the approval of the amended permanency plan by
45 the judge presiding over the child protective act proceeding.

46 (3) Any person or persons whose consent is required shall execute such
47 consent in writing, in a form consistent with the provisions of section
48 16-2005(4), Idaho Code, which consent being filed in the court where the
49 application is made, shall be deemed a sufficient appearance on the part of

1 such person or persons. If any adoptive parent, or a person not a minor being
2 adopted by a resident adult under the provisions of section 16-1501, Idaho
3 Code, is a member of the armed services and is unable to attend the hearing,
4 his appearance and testimony shall be received by means of deposition, which
5 shall be filed in the court at the time of the hearing.

6 (4) Prior to the placement for adoption of any child in the home of
7 prospective adoptive parents, it shall be required that a thorough social
8 investigation of the prospective adoptive family and all of its members,
9 consistent with the rules regarding such investigations promulgated by the
10 department of health and welfare, shall be completed and that a positive
11 recommendation for adoptive placement shall have been made. The social in-
12 vestigation may be performed by any individual who meets the requirements of
13 the law. A copy of the study must be submitted to the department and the de-
14 partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),
15 for oversight of such privately conducted studies. If the prospective adop-
16 tive parent has a disability as defined in this chapter, the prospective
17 adoptive parent shall have the right, as a part of the social study, to pro-
18 vide information regarding the manner in which the use of adaptive equipment
19 or supportive services will enable the parent to carry out the responsibili-
20 ties of parenting the child. The person performing the social investigation
21 shall advise the prospective adoptive parent of such right and shall con-
22 sider all such information in any findings or recommendations. The social
23 investigation of any prospective adoptive parent with a disability shall
24 be conducted by, or with the assistance of, an individual with expertise in
25 the use of such equipment and services. Nothing in this chapter shall be
26 construed to create any new or additional obligation on state or local gov-
27 ernments to purchase or provide adaptive equipment or supportive services
28 for parents with disabilities. In those instances where the prospective
29 adoptive parent is married to the birth parent or is the grandparent of the
30 child to be adopted, such social investigation shall be completed with re-
31 gard to the prospective adoptive parent only upon order of the court. In
32 exigent circumstances where the prospective adoptive parents are determined
33 by the court to have been unable to complete a social investigation of the
34 family with a positive recommendation prior to the time the child is placed
35 in the home, the child shall remain in the home unless the court determines
36 the best interests of the child are served by other placement. If exigent
37 circumstances exist, a social investigation shall be initiated within five
38 (5) days of placement. Once initiated, all studies shall be completed within
39 sixty (60) days. Upon the filing of a petition to adopt a minor child by a
40 person unrelated to the child or unmarried to a natural parent of the child
41 and at the discretion of the court upon the filing of any other petition for
42 adoption, a copy of such petition, together with a statement containing the
43 full names and permanent addresses of the child and the petitioners, shall
44 be served by the court receiving the petition within five (5) days on the di-
45 rector of the department of health and welfare by registered mail or personal
46 service. If no private investigation is conducted, it shall then be the duty
47 of the said director, through the personnel of the department or through
48 such qualified child-placing children's adoption agency incorporated under
49 chapter 30, title 30, Idaho Code, as the director may designate, to verify
50 the allegations of the petition, and as soon as possible not exceeding thirty

1 (30) days after service of the petition on the director to make a thorough
2 investigation of the matter to include in all cases information as to the
3 alleged date and place of birth and as to parentage of the child to be adopted
4 as well as the source of all such information and report his findings in writ-
5 ing to the court. The investigative report shall include reasonably known
6 or available medical and genetic information regarding both natural parents
7 and sources of such information as well as reasonably known or available
8 providers of medical care and services to the natural parents. A copy of all
9 medical and genetic information compiled in the investigation shall be made
10 available to the adopting family by the department or other investigating
11 children's adoption agency prior to entry of the final order of adoption.
12 The petition, statement and all other papers, records or files relating to
13 the adoption, including the preplacement investigation and recommendation,
14 shall be returned to the court with the investigative report. The department
15 of health and welfare or other children's adoption agency may require the
16 petitioner to pay all or any part of the costs of the investigation. If the
17 report disapproves of the adoption of the child, motion may be made to the
18 court to dismiss the petition.

19 (5) Proceedings for termination of parent-child relationship in accor-
20 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may
21 be consolidated and determined at one (1) hearing provided that all of the
22 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be
23 fully complied with. Nothing in either chapter shall be construed as limit-
24 ing the initiation of any petition for approval of a verified financial plan
25 for adoption expenses pursuant to section 18-1511, Idaho Code, prior to the
26 birth of the child which is the subject of any adoption proceeding. In all
27 disputed matters under this chapter or chapter 20, title 16, Idaho Code, the
28 paramount criterion for consideration and determination by the court shall
29 be the best interests of the child.

30 (6) Proceedings for the adoption of an adult shall be as provided in
31 subsection (1) of this section and any consents required shall be executed
32 as provided in subsection (3) of this section. Upon a finding by the court
33 that the consent of all persons for whom consent is required has been given
34 and that the requirements of section 16-1501, Idaho Code, have been proven
35 to the satisfaction of the court, the court shall enter an order granting the
36 adoption. In cases where the adult proposed to be adopted is incapacitated
37 or disabled, the court may require that an investigation be performed. The
38 form and extent of the investigation to be undertaken may be as provided in
39 subsection (4) of this section, or as otherwise ordered by the court. If an
40 investigation is performed, the court must review and approve the findings
41 of the investigation before issuing an order approving the adoption.

42 SECTION 3. That Section 16-1602, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 16-1602. DEFINITIONS. For purposes of this chapter:

45 (1) "Abused" means any case in which a child has been the victim of:

46 (a) Conduct or omission resulting in skin bruising, bleeding, malnu-
47 trition, burns, fracture of any bone, subdural hematoma, soft tissue
48 swelling, failure to thrive or death, and such condition or death is not
49 justifiably explained, or where the history given concerning such con-

1 dition or death is at variance with the degree or type of such condition
2 or death, or the circumstances indicate that such condition or death may
3 not be the product of an accidental occurrence; or

4 (b) Sexual conduct, including rape, molestation, incest, prostitu-
5 tion, obscene or pornographic photographing, filming or depiction for
6 commercial purposes, or other similar forms of sexual exploitation
7 harming or threatening the child's health or welfare or mental injury to
8 the child.

9 (2) "Abandoned" means the failure of the parent to maintain a normal
10 parental relationship with his child including, but not limited to, reason-
11 able support or regular personal contact. Failure to maintain this rela-
12 tionship without just cause for a period of one (1) year shall constitute
13 prima facie evidence of abandonment.

14 (3) "Adaptive equipment" means any piece of equipment or any item that
15 is used to increase, maintain or improve the parenting capabilities of a par-
16 ent with a disability.

17 (4) "Adjudicatory hearing" means a hearing to determine:

18 (a) Whether the child comes under the jurisdiction of the court pur-
19 suant to the provisions of this chapter;

20 (b) Whether continuation of the child in the home would be contrary to
21 the child's welfare and whether the best interest of the child requires
22 protective supervision or vesting legal custody of the child in an au-
23 thorized agency.

24 (5) "Age of developmentally appropriate" means:

25 (a) Activities that are generally accepted as suitable for children of
26 the same chronological age or level of maturity or that are determined
27 to be developmentally appropriate for a child, based on the development
28 of cognitive, emotional, physical and behavioral capacities that are
29 typical for an age or age group; and

30 (b) In the case of a specific child, activities or items that are suit-
31 able for the child based on the developmental stages attained by the
32 child with respect to the cognitive, emotional, physical and behavioral
33 capacities of the child.

34 (6) "Aggravated circumstances" includes, but is not limited to:

35 (a) Circumstances in which the parent has engaged in any of the follow-
36 ing:

37 (i) Abandonment, chronic abuse or chronic neglect of the child.
38 Chronic neglect or chronic abuse of a child shall consist of abuse
39 or neglect that is so extreme or repetitious as to indicate that
40 return of the child to the home would result in unacceptable risk
41 to the health and welfare of the child.

42 (ii) Sexual abuse against a child of the parent. Sexual abuse,
43 for the purposes of this section, includes any conduct described
44 in section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101
45 or 18-6608, Idaho Code.

46 (iii) Torture of a child; any conduct described in the code sec-
47 tions listed in section 18-8303(1), Idaho Code; battery or an
48 injury to a child that results in serious or great bodily in-
49 jury to a child; voluntary manslaughter of a child, or aiding or
50 abetting such voluntary manslaughter, soliciting such voluntary

1 manslaughter or attempting or conspiring to commit such voluntary
2 manslaughter;

3 (b) The parent has committed murder, aided or abetted a murder, so-
4 solicited a murder or attempted or conspired to commit murder; or

5 (c) The parental rights of the parent to another child have been termi-
6 nated involuntarily.

7 (7) "Authorized agency" means the department, a local agency, a person,
8 an organization, corporation, benevolent society or association licensed
9 or approved by the department or the court to receive children for control,
10 care, maintenance or placement.

11 (8) "Caregiver" means a foster parent with whom a child in foster care
12 has been placed or a designated official for a child care institution in
13 which a child in foster care has been placed.

14 (9) "Case plan hearing" means a hearing to approve, modify or reject the
15 case plan as provided in section 16-1621, Idaho Code.

16 (10) "Child" means an individual who is under the age of eighteen (18)
17 years.

18 (11) "Child advocacy center" or "CAC" means an organization that ad-
19 heres to national best practice standards established by the national
20 membership and accrediting body for children's advocacy centers and that
21 promotes a comprehensive and coordinated multidisciplinary team response to
22 allegations of child abuse by maintaining a child-friendly facility at which
23 appropriate services are provided. These services may include forensic in-
24 terviews, forensic medical examinations, mental health services and other
25 related victim services.

26 (12) "Circumstances of the child" includes, but is not limited to, the
27 joint legal custody or joint physical custody of the child.

28 (13) "Commit" means to transfer legal and physical custody.

29 (14) "Concurrent planning" means a planning model that prepares for and
30 implements different outcomes at the same time.

31 (15) "Court" means district court or magistrate's division thereof, or
32 if the context requires, a magistrate or judge thereof.

33 (16) "Custodian" means a person, other than a parent or legal guardian,
34 to whom legal or joint legal custody of the child has been given by court or-
35 der.

36 (17) "Department" means the department of health and welfare and its au-
37 thorized representatives.

38 (18) "Disability" means, with respect to an individual, any mental or
39 physical impairment which substantially limits one (1) or more major life
40 activity of the individual including, but not limited to, self-care, man-
41 ual tasks, walking, seeing, hearing, speaking, learning or working, or a
42 record of such an impairment, or being regarded as having such an impairment.
43 Disability shall not include transvestism, transsexualism, pedophilia,
44 exhibitionism, voyeurism, other sexual behavior disorders, or substance use
45 disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-
46 ence or orientation is not considered an impairment or disability. Whether
47 an impairment substantially limits a major life activity shall be determined
48 without consideration of the effect of corrective or mitigating measures
49 used to reduce the effects of the impairment.

1 (19) "Family or household member" shall have the same meaning as in sec-
2 tion 39-6303(6), Idaho Code.

3 (20) "Foster care" means twenty-four (24) hour substitute parental care
4 for children placed away from their parents or guardians by persons who may
5 or may not be related to the children and for whom the state agency has place-
6 ment and care responsibility.

7 (21) "Foster parent" means a person or persons licensed to provide fos-
8 ter care.

9 (22) "Grant administrator" means the supreme court or any organization
10 or agency as may be designated by the supreme court in accordance with such
11 procedures as may be adopted by the supreme court. The grant administrator
12 shall administer funds from the guardian ad litem account in accordance with
13 the provisions of this chapter.

14 (23) "Guardian ad litem" means a person appointed by the court pursuant
15 to a guardian ad litem volunteer program to act as special advocate for a
16 child under this chapter.

17 (24) "Guardian ad litem coordinator" means a person or entity receiving
18 moneys from the grant administrator for the purpose of carrying out any of
19 the duties set forth in section 16-1632, Idaho Code.

20 (25) "Guardian ad litem program" means the program to recruit, train and
21 coordinate volunteer persons to serve as guardians ad litem for abused, ne-
22 glected or abandoned children.

23 (26) "Homeless," as used in this chapter, shall mean that the child is
24 without adequate shelter or other living facilities, and the lack of such
25 shelter or other living facilities poses a threat to the health, safety or
26 well-being of the child.

27 (27) "Idaho network of children's advocacy centers" means an organiza-
28 tion that provides education and technical assistance to child advocacy cen-
29 ters and to interagency multidisciplinary teams developed pursuant to sec-
30 tion 16-1617, Idaho Code.

31 (28) "Law enforcement agency" means a city police department, the pros-
32 ecuting attorney of any county, state law enforcement officers, or the of-
33 fice of a sheriff of any county.

34 (29) "Legal custody" means a relationship created by court order, which
35 vests in a custodian the following rights and responsibilities:

36 (a) To have physical custody and control of the child, and to determine
37 where and with whom the child shall live.

38 (b) To supply the child with food, clothing, shelter and incidental ne-
39 cessities.

40 (c) To provide the child with care, education and discipline.

41 (d) To authorize ordinary medical, dental, psychiatric, psychologi-
42 cal, or other remedial care and treatment for the child, including care
43 and treatment in a facility with a program of services for children, and
44 and to authorize surgery if the surgery is deemed by two (2) physicians
45 licensed to practice in this state to be necessary for the child.

46 (e) Where the parents share legal custody, the custodian may be vested
47 with the custody previously held by either or both parents.

48 (30) "Mental injury" means a substantial impairment in the intellectual
49 or psychological ability of a child to function within a normal range of per-
50 formance and/or behavior, for short or long terms.

1 (31) "Neglected" means a child:

2 (a) Who is without proper parental care and control, or subsistence,
3 medical or other care or control necessary for his well-being because of
4 the conduct or omission of his parents, guardian or other custodian or
5 their neglect or refusal to provide them; however, no child whose parent
6 or guardian chooses for such child treatment by prayers through spiri-
7 tual means alone in lieu of medical treatment shall be deemed for that
8 reason alone to be neglected or lack parental care necessary for his
9 health and well-being, but this subsection shall not prevent the court
10 from acting pursuant to section 16-1627, Idaho Code; or

11 (b) Whose parents, guardian or other custodian are unable to discharge
12 their responsibilities to and for the child and, as a result of such
13 inability, the child lacks the parental care necessary for his health,
14 safety or well-being; or

15 (c) Who has been placed for care or adoption in violation of law; or

16 (d) Who is without proper education because of the failure to comply
17 with section 33-202, Idaho Code.

18 (32) "Permanency hearing" means a hearing to review, approve, reject or
19 modify the permanency plan of the department, and review reasonable efforts
20 in accomplishing the permanency plan.

21 (33) "Permanency plan" means a plan for a continuous residence and main-
22 tenance of nurturing relationships during the child's minority.

23 (34) "Protective order" means an order issued by the court in a child
24 protection case, prior to the adjudicatory hearing, to enable the child to
25 remain in the home pursuant to section 16-1615(5)~~(f)~~, Idaho Code. Such an
26 order shall be in the same form and have the same effect as a domestic vio-
27 lence protection order issued pursuant to chapter 63, title 39, Idaho Code.
28 A protective order shall be for a period not to exceed three (3) months unless
29 otherwise stated in the order.

30 (35) "Protective supervision" is a legal status created by court order
31 in a child protective case whereby the child is in the legal custody of his or
32 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-
33 sion by the department.

34 (36) "Psychotropic medication" means a drug prescribed to affect psy-
35 chological functioning, perception, behavior or mood. Psychotropic medi-
36 cations include, but are not limited to, antidepressants, mood stabilizers,
37 antipsychotics, ~~anti-anxiety~~ antianxiety medications, sedatives and stimu-
38 lants.

39 (37) "Reasonable and prudent parent standard" means the standard of
40 care characterized by careful and sensible parental decisions that main-
41 tain the health, safety and best interests of a child while simultaneously
42 encouraging the emotional and developmental growth of the child, that a
43 caregiver shall use when determining whether to allow a child in foster care
44 under the responsibility of the state to participate in extracurricular,
45 enrichment, cultural or social activities.

46 (38) "Relative" means a child's grandparent, great grandparent, aunt,
47 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first
48 cousin, sibling and half-sibling.

49 (39) "Residual parental rights and responsibilities" means those
50 rights and responsibilities remaining with the parents after the transfer of

1 legal custody including, but not necessarily limited to, the right of visi-
2 tation, the right to consent to adoption, the right to determine religious
3 affiliation, the right to family counseling when beneficial, and the respon-
4 sibility for support.

5 (40) "Shelter care" means places designated by the department for tem-
6 porary care of children pending court disposition or placement.

7 (41) "Supportive services," as used in this chapter, shall mean ser-
8 vices ~~which~~ that assist parents with a disability to compensate for those
9 aspects of their disability ~~which~~ that affect their ability to care for their
10 child and ~~which~~ that will enable them to discharge their parental responsi-
11 bilities. The term includes specialized or adapted training, evaluations
12 or assistance with effectively using adaptive equipment and accommodations
13 ~~which~~ that allow parents with a disability to benefit from other services
14 including, but not limited to, Braille texts or sign language interpreters.

15 SECTION 4. That Section 16-1620, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN --
18 HEARING. (1) After a judicial determination that reasonable efforts to re-
19 turn the child to his home are not required because aggravated circumstances
20 were found to be present, the court shall hold a permanency hearing within
21 thirty (30) days after the finding, and every twelve (12) months thereafter
22 for as long as the court has jurisdiction. The department shall prepare a
23 permanency plan and file the permanency plan with the court at least five (5)
24 days prior to the permanency hearing. If the permanency plan has a goal of
25 termination of parental rights and adoption, the department shall file the
26 petition to terminate as required in section 16-1624(2), Idaho Code. Copies
27 of the permanency plan shall be delivered to the parents and other legal
28 guardians, prosecuting attorney or deputy attorney general, the guardian ad
29 litem and attorney for the child.

30 (2) The permanency plan shall have a permanency goal of termination of
31 parental rights and adoption, guardianship or, for youth age sixteen (16)
32 years and older only, another planned permanent living arrangement and shall
33 set forth the reasonable efforts necessary to finalize the permanency goal.

34 (3) The permanency plan shall also:

35 (a) Identify the services to be provided to the child, including ser-
36 vices to identify and meet any educational, emotional, physical or de-
37 velopmental needs the child may have, to assist the child in adjusting
38 to the placement or to ensure the stability of the placement;

39 (b) Address all options for permanent placement of the child, including
40 consideration of options for in-state and out-of-state placement of the
41 child;

42 (c) Address the advantages and disadvantages of each option and include
43 a recommendation as to which option is in the child's best interest;

44 (d) Specifically identify the actions necessary to implement the rec-
45 ommended option;

46 (e) Specifically set forth a schedule for accomplishing the actions
47 necessary to implement the permanency goal;

48 (f) Address the options for maintaining the child's connection to the
49 community, including individuals with a significant relationship to

1 the child, and organizations or community activities with which the
2 child has a significant connection. This shall also include the efforts
3 made to ensure educational stability for the child, the efforts to keep
4 the child in the school in which the child is enrolled at the time of
5 placement or the reasons why remaining in that school is not in the best
6 interests of the child;

7 (g) Document that siblings were placed together, or if siblings were
8 not placed together, document the efforts made to place siblings to-
9 gether, the reasons why siblings were not placed together, and a plan
10 for ensuring frequent visitation or ongoing interaction between the
11 siblings, unless visitation or ongoing interaction would be contrary to
12 the safety or well-being of one (1) or more of the siblings;

13 (h) For youth age fourteen (14) years and older:

14 (i) Identify the services needed to assist the youth to make the
15 transition from foster care to successful adulthood; and

16 (ii) Document the youth's rights in regard to his education,
17 health, visitation, court participation and receipt of an annual
18 credit report, including a signed acknowledgment by the depart-
19 ment that the youth was provided with a written copy of these
20 rights and that the rights were explained to the youth in an age or
21 developmentally appropriate manner;

22 (i) For youth age sixteen (16) years and older with a proposed perma-
23 nency goal of another planned permanent living arrangement, document:

24 (i) The intensive, ongoing, and as of the date of the hearing,
25 unsuccessful efforts made to place the youth with a parent, in an
26 adoptive placement, in a guardianship, or in the legal custody of
27 the department in a placement with a fit and willing relative, in-
28 cluding an adult sibling;

29 (ii) Why another planned permanent living arrangement is the best
30 permanency plan for the youth and compelling reasons why, as of the
31 date of the permanency hearing, it would not be in the best inter-
32 est of the youth to be placed permanently with a parent, in an adop-
33 tive placement, in a guardianship, or in the legal custody of the
34 department in a placement with a fit and willing relative, includ-
35 ing an adult sibling;

36 (iii) The steps that the department has taken to ensure that the
37 youth's foster parents or child care institution are following the
38 reasonable and prudent parent standard when determining whether
39 to allow the youth in their care to participate in extracurricu-
40 lar, enrichment, cultural and social activities; and

41 (iv) The opportunities provided to the youth to engage in age or
42 developmentally appropriate activities; and

43 (j) If there is reason to believe the child is an Indian child and there
44 has been no final determination as to the child's status as an Indian
45 child, document:

46 (i) The efforts made to determine whether the child is an Indian
47 child; and

48 (ii) The department's efforts to work with all tribes of which the
49 child may be a member to verify whether the child is a member or el-
50 igible for membership; and

1 (hk) Identify the prospective adoptive parents, if known; if the
2 prospective adoptive parents are not known, the department shall amend
3 the plan to name the proposed adoptive parents as soon as such persons
4 become known.

5 (4) The court shall hold a permanency hearing to determine whether the
6 best interest of the child is served by adopting, rejecting or modifying the
7 permanency plan proposed by the department. At each permanency hearing:

8 (a) For youth age twelve (12) years and older, unless good cause is
9 shown, the court shall ask the youth about his desired permanency out-
10 come and consult with the youth about the youth's current permanency
11 plan;

12 (b) If there is reason to believe that the child is an Indian child and
13 there has not been a final determination regarding the child's status as
14 an Indian child, the court shall:

15 (i) Inquire about the efforts that have been made since the last
16 hearing to determine whether the child is an Indian child; and

17 (ii) Determine that the department is using active efforts to work
18 with all tribes of which the child may be a member to verify whether
19 the child is a member or eligible for membership.

20 (c) If the child is being treated with psychotropic medication, these
21 additional requirements shall apply:

22 (i) The department shall report to the court the medication and
23 dosage prescribed for the child and the medical professional who
24 prescribed the medication; and

25 (ii) The court shall inquire as to, and may make any additional
26 inquiry relevant to, the use of psychotropic medication.

27 (5) Notice of the permanency hearing shall be provided to the parents
28 and other legal guardians, prosecuting attorney or deputy attorney general,
29 guardian ad litem, attorney for the child, the department and foster par-
30 ents; provided however, that foster parents are not thereby made parties to
31 the child protective act action.

32 (6) The permanency plan as approved by the court shall be entered into
33 the record as an order of the court. The order may include interim and fi-
34 nal deadlines for implementing the permanency plan and finalizing the perma-
35 nency goal.

36 (7) For youth with a proposed or current permanency goal of another
37 planned permanent living arrangement, at each permanency hearing the court
38 shall make written, case-specific findings that as of the date of the perma-
39 nency hearing, another planned permanent living arrangement is the best per-
40 manency plan for the youth and that there are compelling reasons why it is
41 not in the youth's best interest to be placed permanently with a parent, in
42 an adoptive placement, in a guardianship, or in the legal custody of the de-
43 partment in a placement with a fit and willing relative, including an adult
44 sibling.

45 (8) The court may authorize the department to suspend further efforts
46 to reunify the child with the child's parent, pending further order of the
47 court, when a petition or other motion is filed in a child protection pro-
48 ceeding seeking a determination of the court that aggravated circumstances
49 were present.

1 SECTION 5. That Section 16-1621, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-
4 STANCES. (1) In every case in which the child is determined to be within
5 the jurisdiction of the court, and there is no judicial determination that
6 aggravated circumstances were present, the department shall prepare a writ-
7 ten case plan, including cases in which the parent(s) is incarcerated. The
8 court shall schedule a case plan hearing to be held within thirty (30) days
9 after the adjudicatory hearing. The case plan shall be filed with the court
10 no later than five (5) days prior to the case plan hearing. Copies of the
11 case plan shall be delivered to the parents and other legal guardians, the
12 prosecuting attorney or deputy attorney general, the guardian ad litem and
13 attorney for the child.

14 (a) The court shall hold a case plan hearing to determine whether the
15 best interest of the child is served by adopting, rejecting or modifying
16 the case plan proposed by the department.

17 (b) If there is reason to believe that the child is an Indian child and
18 there has not been a final determination regarding the child's status as
19 an Indian child, the court shall:

20 (i) Inquire about the efforts that have been made since the last
21 hearing to determine whether the child is an Indian child; and

22 (ii) Determine that the department is using active efforts to work
23 with all tribes of which the child may be a member to verify whether
24 the child is a member or eligible for membership.

25 (c) If the child is being treated with psychotropic medication, the
26 court shall inquire as to, and may make any additional inquiry relevant
27 to, the use of psychotropic medication.

28 (2) Notice of the case plan hearing shall be provided to the parents,
29 and other legal guardians, the prosecuting attorney or deputy attorney gen-
30 eral, guardian ad litem, attorney for the child, the department and foster
31 parents. Although foster parents are provided notice of this hearing, they
32 are not parties to the child protective act action.

33 (3) If the child is placed in the legal custody of the department, the
34 case plan filed by the department shall set forth reasonable efforts that
35 will be made to make it possible for the child to return home. The case plan
36 shall also:

37 (a) Identify the services to be provided to the child, including ser-
38 vices to identify and meet any educational, emotional, physical or de-
39 velopmental needs the child may have, and to assist the child in adjust-
40 ing to the placement or to ensure the stability of the placement. For
41 youth age fourteen (14) years and older:

42 (i) Identify the services needed to assist the youth in making the
43 transition to successful adulthood; and

44 (ii) Document the youth's rights in regard to his education and
45 health, visitation, court participation and receipt of an annual
46 credit report, including a signed acknowledgment by the depart-
47 ment that the youth was provided with a written copy of these
48 rights and that the rights were explained to the youth in an age or
49 developmentally appropriate manner;

1 (b) Address the options for maintaining the child's connection to the
2 community:

3 (i) Include connections to individuals with a significant rela-
4 tionship to the child, and organizations or community activities
5 with which the child has a significant connection;

6 (ii) Ensure educational stability for the child, including the
7 efforts to keep the child in the school in which the child is en-
8 rolled at the time of placement or the reasons why remaining in
9 that school is not in the best interests of the child;

10 (iii) Include a visitation plan and identify the need for supervi-
11 sion of visitation and child support;

12 (iv) Document either that siblings were placed together, or, if
13 siblings were not placed together, document the efforts made to
14 place the siblings together, the reasons why siblings were not
15 placed together and a plan for ensuring frequent visitation or
16 other ongoing interaction among siblings, unless visitation or
17 ongoing interaction would be contrary to the safety or well-being
18 of one (1) or more of the siblings; and

19 (v) If there is reason to believe the child is an Indian child and
20 there has been no final determination as to the child's status as
21 an Indian child, document:

22 1. The efforts made to determine whether the child is an In-
23 dian child; and

24 2. The department's efforts to work with all tribes of which
25 the child may be a member to verify whether the child is a
26 member or eligible for membership;

27 (c) Include a goal of reunification and a plan for achieving that
28 goal. The reunification plan shall identify all issues that need to
29 be addressed before the child can safely be returned home without de-
30 partment supervision. The court may specifically identify issues to
31 be addressed by the plan. The reunification plan shall specifically
32 identify the tasks to be completed by the department, each parent or
33 others to address each issue, including services to be made available
34 by the department to the parents and in which the parents are required
35 to participate, and deadlines for completion of each task. The case
36 plan shall state with specificity the role of the department toward each
37 parent. When appropriate, the reunification plan should identify terms
38 for visitation, supervision of visitation and child support;

39 (d) Include a concurrent permanency goal and a plan for achieving that
40 goal. The concurrent permanency goal may be one (1) of the following:
41 termination of parental rights and adoption, guardianship or, for youth
42 age sixteen (16) years or older only, another planned permanent living
43 arrangement. The concurrent plan shall:

44 (i) Address all options for permanent placement of the child,
45 including consideration of options for in-state and out-of-state
46 placement of the child;

47 (ii) Address the advantages and disadvantages of each option and
48 include a recommendation as to which option is in the child's best
49 interest;

1 (iii) Specifically identify the actions necessary to implement
2 the recommended option;

3 (iv) Specifically set forth a schedule for accomplishing the ac-
4 tions necessary to implement the concurrent permanency goal;

5 (v) Address options for maintaining the child's connection to
6 the community, including individuals with a significant relation-
7 ship to the child, and organizations or community activities with
8 which the child has a significant connection;

9 (vi) Identify the names of the proposed adoptive parents when
10 known if the permanency goal is termination of parental rights and
11 adoption;

12 (vii) In the case of a child who has attained the age of fourteen
13 (14) years, include the services needed to assist the child to make
14 the transition from foster care to successful adulthood;

15 (viii) For youth with a proposed permanency goal of another perma-
16 nent planned living arrangement, document:

17 1. The intensive, ongoing, and, as of the date of the hear-
18 ing, unsuccessful efforts made to place the youth with a par-
19 ent, in an adoptive placement, in a guardianship, or in the
20 legal custody of the department in a placement with a fit and
21 willing relative, including an adult sibling;

22 2. Why another planned permanent living arrangement is the
23 best permanency goal for the youth and a compelling reason
24 why, as of the date of the case plan hearing, it would not be
25 in the best interest of the child to be placed permanently
26 with a parent, in an adoptive placement, in a guardianship,
27 or in the legal custody of the department in a placement with
28 a fit and willing relative, including an adult sibling;

29 3. The steps taken by the department to ensure that the
30 youth's foster parents or child care institution are follow-
31 ing the reasonable and prudent parent standard when making
32 decisions about whether the youth can engage in extracurric-
33 ular, enrichment, cultural and social activities; and

34 4. The opportunities provided to the youth to regularly en-
35 gage in age or developmentally appropriate activities; and

36 (viii) Identify further investigation necessary to identify or
37 assess other options for permanent placement, to identify actions
38 necessary to implement the recommended placement or to identify
39 options for maintaining the child's significant connections.

40 (4) If the child has been placed under protective supervision of the de-
41 partment, the case plan, filed by the department, shall:

42 (a) Identify the services to be provided to the child, including ser-
43 vices to identify and meet any educational, emotional, physical or de-
44 velopmental needs the child may have, and to assist the child in adjust-
45 ing to the placement or to ensure the stability of the placement. For
46 youth age fourteen (14) years and older, identify the services needed
47 to assist the youth in making the transition to successful adulthood and
48 document the youth's rights in regard to his education and health, vis-
49 itation, court participation and receipt of an annual credit report,
50 including a signed acknowledgment by the department that the youth was

1 provided with a written copy of his rights and that the rights were ex-
2 plained to the youth in an age or developmentally appropriate manner.
3 The plan shall also address options for maintaining the child's connec-
4 tion to the community, including individuals with a significant rela-
5 tionship to the child, and organizations or community activities with
6 which the child has a significant connection;

7 (b) Identify all issues that need to be addressed to allow the child to
8 remain at home without department supervision. The court may specifi-
9 cally identify issues to be addressed by the plan. The case plan shall
10 specifically identify the tasks to be completed by the department, the
11 parents or others to address each issue, including services to be made
12 available by the department to the parents and in which the parents are
13 required to participate, and deadlines for completion of each task. The
14 plan shall state with specificity the role of the department toward each
15 parent.

16 (5) The case plan, as approved by the court, shall be entered into the
17 record as an order of the court. The order may include interim and final
18 deadlines for implementing the case plan and finalizing the permanency goal.
19 The court's order shall provide that reasonable efforts shall be made to re-
20 unify the family in a timely manner in accordance with the case plan. Unless
21 the child has been placed under the protective supervision of the depart-
22 ment, the court's order shall also require the department to simultaneously
23 take steps to accomplish the goal of reunification and the concurrent perma-
24 nency goal.

25 SECTION 6. That 16-1644, Idaho Code, as enacted by Section 7, Chapter
26 347, Laws of 2016, be, and the same is hereby amended to read as follows:

27 16-1644⁵. EXEMPTION. Notwithstanding any other provision of law,
28 nothing in this chapter modifies or supersedes the requirements of the In-
29 dian child welfare act of 1978, 25 U.S.C. 1901, et seq.

30 SECTION 7. That 16-1644, Idaho Code, as enacted by Section 1, Chapter
31 284, Laws of 2016, be, and the same is hereby amended to read as follows:

32 16-1644⁶. STATE DEPARTMENT OF HEALTH AND WELFARE ANNUAL REPORT. The
33 state department of health and welfare shall submit an annual report regard-
34 ing the foster care program to the germane standing committees of the legis-
35 lature no later than ten (10) days following the start of each regular ses-
36 sion. On or before February 15 of each year, the state department of health
37 and welfare shall appear before the germane standing committees to present
38 the report. Such report shall include, but need not be limited to, the num-
39 ber of children that are in the department's legal custody pursuant to this
40 chapter, the number of such children who have been placed in foster care,
41 how many times such children have been moved to different foster care homes
42 and the reasons for such moves, best practices in foster care, goals to im-
43 prove the foster care system in Idaho to ensure best practices are adhered
44 to, a description of progress made with regard to the previous year's goals
45 to improve the foster care system and any other information relating to fos-
46 ter care that the legislature requests. If a member of the legislature re-
47 quests additional information between the time the report is received by the

1 legislature and the time the department appears to present the report, then
2 the department shall supplement its report to include such additional infor-
3 mation.

4 SECTION 8. That Section 19-862, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 19-862. APPROPRIATION FOR PUBLIC DEFENDER -- PRIVATE CONTRIBU-
7 TIONS. (1) The board of county commissioners of each county shall annually
8 appropriate enough money to fund the indigent defense provider that it has
9 selected under section 19-859, Idaho Code, and, except as provided in sub-
10 section (2) of this section, shall maintain not less than its local share.
11 ~~and The board of county commissioners of each county may appropriate such~~
12 money from the justice fund as provided in section 31-4602, Idaho Code, the
13 current expense fund as provided in section 63-805, Idaho Code, and as a
14 means of providing nonmedical indigent assistance in accordance with chap-
15 ter 34, title 31, Idaho Code.

16 (2) The board of county commissioners is not required to expend its full
17 local share if it can comply with indigent defense standards for less than
18 that share.

19 (3) If the board of county commissioners of a county elects to estab-
20 lish and maintain an office of public defender or a joint office of public
21 defender, the county may accept private contributions toward the support of
22 the office.

23 SECTION 9. That Section 20-213A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 20-213A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AU-
26 THORIZED -- REPORT REQUIRED. (1) All meetings of the commission of pardons
27 and parole shall be held in accordance with the open meetings law as provided
28 in chapter 23, title 674, Idaho Code, except:

29 (a) Deliberations and decisions concerning the granting, revoking, re-
30 instating or refusing of paroles, or the granting or denying of pardons
31 or commutations, may be made in executive session; and

32 (b) Votes of individual members in arriving at the parole, pardon or
33 commutation decisions shall not be made public, provided that the com-
34 mission shall maintain a record of the votes of the individual members
35 as required in subsection (2) of this section.

36 (2) A written record of the vote to grant or deny parole, pardon or
37 commutation, by each commission member in each case reviewed by that member
38 shall be produced by the commission. The record produced by the commission
39 pursuant to this section shall be kept confidential and privileged from dis-
40 closure, provided the record shall be made available, upon request, to the
41 governor and the chairman of the senate judiciary and rules committee and
42 the chairman of the house of representatives judiciary, rules and adminis-
43 tration committee, for all lawful purposes. Distribution of the report by
44 a commissioner or an employee of the executive director to any person not
45 specifically listed in this section shall be a misdemeanor.

46 (3) Nothing contained in this section shall prevent any person from ob-
47 taining the results of any parole, pardon or commutation action by the com-

1 mission without reference to the manner in which any member voted, and the
2 commission shall make such information public information.

3 (4) Nothing contained herein shall prevent the executive director for
4 the commission or designated staff of the executive director from attending
5 any meeting, including an executive session of the commission of pardons and
6 parole.

7 (5) Nothing contained herein shall prevent the governor and chairman
8 of the senate judiciary and rules committee and the chairman of the house of
9 representatives judiciary, rules and administration committee from attend-
10 ing any meeting, including an executive session of the commission of pardons
11 and parole.

12 SECTION 10. That Section 20-533A, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 20-533A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AU-
15 THORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody re-
16 view board of the Idaho department of juvenile corrections shall be held in
17 accordance with the open meetings law as provided in chapter 23, title 674,
18 Idaho Code, provided however:

19 (a) Deliberations and decisions of the board concerning whether or not
20 a juvenile offender shall be held in custody of the Idaho department
21 of juvenile corrections for an extended period of time past his or her
22 nineteenth birthday may be made in executive session; and

23 (b) Votes of individual members in custody decisions shall not be made
24 public, provided that the board shall maintain a record of the votes of
25 the individual members as required in subsection (2) of this section.

26 (2) A written record of the vote to retain the juvenile offender in cus-
27 tody for an extended period of time by each board member in each case reviewed
28 by that member shall be produced by the board. Such record shall be kept con-
29 fidential and privileged from disclosure, provided the record shall be made
30 available upon request to the governor, the chairman of the senate judiciary
31 and rules committee and the chairman of the house of representatives judi-
32 ciary, rules and administration committee for all lawful purposes.

33 (3) A board member or employee of the Idaho department of juvenile cor-
34 rections who distributes to any person not specifically listed in this sec-
35 tion any hearing information or records that are legally required to be kept
36 confidential shall be guilty of a misdemeanor.

37 (4) Nothing contained in this section shall prevent any person from ob-
38 taining the results of any action by the board or director of the Idaho de-
39 partment of juvenile corrections without reference to the manner in which
40 any member voted, and the board shall make such information public unless do-
41 ing so would violate public records laws.

42 (5) Nothing contained in this section shall prevent the director, des-
43 ignated staff of the director, the governor, the chairman of the senate ju-
44 diciary and rules committee or the chairman of the house of representatives
45 judiciary, rules and administration committee from attending any meeting,
46 including any executive session, of the custody review board.

47 SECTION 11. That Section 23-902, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 23-902. DEFINITIONS. The following words and phrases used in this
2 chapter shall be given the following interpretation:

3 (1) "Club" includes any of the following organizations where the sale
4 of spirituous liquor for consumption on the premises is made to members and
5 to bona fide guests of members only:

6 (a) A post, chapter, camp or other local unit composed solely of vet-
7 erans and their duly recognized auxiliary, and which is a post, chap-
8 ter, camp or other local unit composed solely of veterans which has been
9 chartered by the congress of the United States for patriotic, fraternal
10 or benevolent purposes, and which has, as the owner, lessee or occupant,
11 operated an establishment for that purpose in this state; or

12 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-
13 can national fraternal organization, which has, as the owner, lessee
14 or occupant, operated an establishment for fraternal purposes in this
15 state and actively operates in not less than thirty-six (36) states or
16 has been in continuous existence for not less than twenty (20) years;
17 and which has no fewer than fifty (50) bona fide members in each unit,
18 and which owns, maintains or operates club quarters, and is autho-
19 rized and incorporated to operate as a nonprofit club under the laws of
20 this state, and which has recognized tax exempt status under section
21 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-
22 tinuously incorporated and operating for a period of not less than one
23 (1) year. The club shall have had, during that period of one (1) year,
24 a bona fide membership with regular meetings conducted at least once
25 each month, and the membership shall be and shall have been actively en-
26 gaged in carrying out the objects of the club. The club membership shall
27 consist of bona fide dues-paying members, recorded by the secretary of
28 the club, paying at least six dollars (\$6.00) per year in dues, payable
29 monthly, quarterly or annually; and the members at the time of applica-
30 tion for a club license shall be in good standing, having paid dues for
31 at least one (1) full year.

32 (2) "Convention" means a formal meeting of members, representatives,
33 or delegates, as of a political party, fraternal society, profession or in-
34 dustry.

35 (3) "Director" means the director of the Idaho state police.

36 (4) "Festival" means a period or program of festive activities, cul-
37 tural events or entertainment lasting three (3) or more consecutive days.

38 (5) "Gaming" means any and all gambling or games of chance defined in
39 chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof,
40 whether those games are licensed or unlicensed.

41 (6) "Interdicted person" means a person to whom the sale of liquor is
42 prohibited under law.

43 (7) "License" means a license issued by the director to a qualified per-
44 son, under which it shall be lawful for the licensee to sell and dispense
45 liquor by the drink at retail, as provided by law.

46 (8) "Licensee" means the person to whom a license is issued under the
47 provisions of law.

48 (9) "Liquor" means all kinds of liquor sold by and in a state liquor
49 store of the state of Idaho.

1 (10) "Live performance" means a performance occurring in a theater and
2 not otherwise in violation of any provision of Idaho law.

3 (11) "Municipal license" means a license issued by a municipality of the
4 state of Idaho under the provisions of law.

5 (12) "Party" means a social gathering especially for pleasure or amuse-
6 ment and includes, but is not limited to, such social events as weddings,
7 birthdays, and special holiday celebrations to include, but not be limited
8 to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the
9 Fourth of July and Labor Day.

10 (13) "Person" means any individual, corporation, business corpora-
11 tion, nonprofit corporation, benefit corporation as defined in section
12 30-2002(1), Idaho Code, partnership, limited partnership, limited liabil-
13 ity company, general cooperative association, limited cooperative asso-
14 ciation, estate, unincorporated nonprofit association, statutory trust,
15 business trust, common-law business trust, estate trust, association,
16 joint venture, public corporation, government or governmental subdivision,
17 agency or instrumentality, any entity defined in section 30-21-102, Idaho
18 Code, or any other commercial entity, whether conducting the business sin-
19 gularly or collectively.

20 (14) "Premises" means the building and contiguous property owned or
21 leased or used under a government permit by a licensee, as part of the busi-
22 ness establishment in the business of sale of liquor by the drink at retail,
23 which property is improved to include decks, docks, boardwalks, lawns,
24 gardens, golf courses, ski resorts, courtyards, patios, poolside areas or
25 similar improved appurtenances in which the sale of liquor by the drink at
26 retail is authorized under the provisions of law.

27 (15) "Rules" means rules promulgated by the director in accordance with
28 the provisions of law.

29 (16) "State liquor store" means a liquor store or distributor estab-
30 lished under and pursuant to the laws of the state of Idaho for the package
31 sale of liquor at retail.

32 (17) "Theater" means a room, place or outside structure for perfor-
33 mances or readings of dramatic literature, plays or dramatic representa-
34 tions of an art form not in violation of any provision of Idaho law.

35 (178) "Brewery" means a place, premises or establishment for the manu-
36 facture, bottling or canning of beer.

37 (189) "Winery" means a place, premises or establishment within the
38 state of Idaho for the manufacture or bottling of table wine or dessert wine
39 for sale. Two (2) or more wineries may use the same premises and the same
40 equipment to manufacture their respective wines, to the extent permitted by
41 federal law.

42 (1920) All other words and phrases used in this chapter, the definitions
43 of which are not herein given, shall be given their ordinary and commonly un-
44 derstood and acceptable meanings.

45 SECTION 12. That Section 30-29-1601, Idaho Code, be, and the same is
46 hereby amended to read as follows:

47 30-29-1601. CORPORATE RECORDS. (1) A corporation shall keep as perma-
48 nent records minutes of all meetings of its shareholders and board of direc-
49 tors, a record of all actions taken by the shareholders or board of directors

1 without a meeting, and a record of all actions taken by a committee of the
2 board of directors in place of the board of directors on behalf of the corpo-
3 ration.

4 (2) A corporation shall maintain appropriate accounting records.

5 (3) A corporation or its agent shall maintain a record of its sharehold-
6 ers, in a form that permits preparation of a list of the names and addresses
7 of all shareholders, in alphabetical order by class of shares showing the
8 number and class of shares held by each.

9 (4) A corporation shall maintain its records in written form or in an-
10 other form capable of conversion into written form within a reasonable time.

11 (5) A corporation shall keep a copy of the following records at its
12 principal office:

13 (a) Its articles or restated articles of incorporation, all amendments
14 to them currently in effect, and any notices to shareholders referred
15 to in section 30-29-120(2)(e), Idaho Code, regarding facts on which a
16 filed document is dependent;

17 (b) Its bylaws or restated bylaws and all amendments to them currently
18 in effect;

19 (c) Resolutions adopted by its board of directors creating one (1) or
20 more classes or series of shares, and fixing their relative rights,
21 preferences, and limitations, if shares issued pursuant to those reso-
22 lutions are outstanding;

23 (d) The minutes of all shareholders' meetings, and records of all ac-
24 tion taken by shareholders without a meeting, for the past three (3)
25 years;

26 (e) All written communications to shareholders generally within the
27 past three (3) years, including the financial statements furnished for
28 the past three (3) years under section 30-29-1620, Idaho Code;

29 (f) A list of the names and business addresses of its current directors
30 and officers; and

31 (g) Its most recent annual report delivered to the secretary of state
32 under section ~~30-29-1622~~ 30-21-213, Idaho Code.

33 SECTION 13. That Section 31-1433, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 31-1433. CONTINUATION OF EXISTING DISTRICTS -- VALIDATING ACTS OF OF-
36 FICERS. Nothing in this chapter shall be construed as impairing the legality
37 or organization of any fire protection district heretofore organized pur-
38 suant to law, nor the legality of any act of such district done in accor-
39 dance with the prior law, nor shall it be deemed to affect the legality of
40 the election of any officer of any such existing fire protection district,
41 and all directors and officers duly elected, qualified and holding office
42 at the time of the taking effect of this chapter, shall continue to serve in
43 such office until the expiration of their present terms; provided, however,
44 that such fire protection districts as have existed heretofore shall comply
45 with the provisions of this chapter as soon as they can conveniently do so and
46 thereafter be governed by the provisions of this chapter. Nor shall anything
47 in this chapter be deemed in any way to affect the existing indebtedness of
48 any fire protection district created under and by virtue of the provisions
49 of chapter 30, title 30, Idaho Code. All such existing fire protection dis-

1 tricts, and the lawful acts of their officers and agents, are hereby declared
 2 prima facie lawful as de facto fire protection districts; provided, however,
 3 that such districts shall comply with the provisions of this chapter as soon
 4 as they can conveniently do so and thereafter be governed by the provisions
 5 of this chapter.

6 SECTION 14. That Section 33-518, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 33-518. EMPLOYEE PERSONNEL FILES. The board of trustees of each school
 9 district, including any specially chartered district, shall provide for
 10 the establishment and maintenance of a personnel file for each employee of
 11 the school district. Each personnel file shall contain any and all material
 12 relevant to the evaluation of the employee. The employee shall be provided
 13 timely notice of all materials placed in the personnel file and shall be af-
 14 farded the opportunity to attach a rebuttal to any such materials. Personnel
 15 files are declared to be confidential and excepted from public access under
 16 any provision of the Idaho Code, including, but not limited to, sections
 17 ~~9-338~~ 74-102 and 59-1009, Idaho Code, provided that each employee or desig-
 18 nated representative shall be given access to his own personnel file upon
 19 request and shall be provided copies of materials contained therein, with
 20 the exception of recommendation letters, in a timely manner upon request.

21 SECTION 15. That Chapter 56, Title 33, Idaho Code, as enacted by Section
 22 1, Chapter 143, Laws of 2016, be, and the same is hereby amended to read as
 23 follows:

24 CHAPTER ~~560~~
 25 PARENTAL RIGHTS IN EDUCATION

26 33-~~5601~~6001. PARENTAL RIGHTS. (1) A student's parent or guardian has
 27 the right to reasonable academic accommodation from ~~their~~ the child's public
 28 school. "Reasonable accommodation" means the school shall make its best ef-
 29 fort to enable a parent or guardian to exercise their rights without substan-
 30 tial impact to staff and resources, including employee working conditions,
 31 safety and supervision on school premises for school activities and the ef-
 32 ficient allocation of expenditures, while balancing the parental rights of
 33 parents and guardians, the educational needs of other students, the academic
 34 and behavioral impacts to a classroom, a teacher's workload and the assur-
 35 ance of the safe and efficient operations of the school.

36 (2) School districts and the boards of directors of public char-
 37 ter schools, in consultation with parents, teachers and administrators,
 38 shall develop and adopt a policy to promote the involvement of parents and
 39 guardians of children enrolled in the schools within the school district or
 40 the charter school, including:

41 (a) A plan for parent participation in the schools that is designed to
 42 improve parent and teacher cooperation in such areas as homework, at-
 43 tendance and discipline;

44 (b) A process by which parents may learn about the course of study for
 45 their children and review learning materials, including the source of
 46 any supplemental educational materials; and

1 (c) A process by which parents who object to any learning material or
 2 activity on the basis that it harms the child or impairs the parents'
 3 firmly held beliefs, values or principles, may withdraw their child
 4 from the activity, class or program in which the material is used.

5 ~~33-5602~~6002. ANNUAL NOTICE OF PARENTAL RIGHTS. School districts and
 6 the boards of directors of public charter schools shall annually notify a
 7 parent or guardian of a student enrolled in the school district or public
 8 charter school of the parent's or guardian's rights as specified in this
 9 chapter.

10 SECTION 16. That Chapter 58, Title 33, Idaho Code, as enacted by Section
 11 1, Chapter 192, Laws of 2016, be, and the same is hereby amended to read as
 12 follows:

13 CHAPTER ~~58~~9
 14 IDAHO SCHOOL SAFETY AND SECURITY ACT

15 ~~33-5801~~5901. SHORT TITLE. This chapter shall be known and may be cited
 16 as the "Idaho School Safety and Security Act."

17 ~~33-5802~~5902. LEGISLATIVE INTENT. It is the intent of the legislature
 18 that the purpose of this chapter is to:

19 (1) Promote the safety and security of the students attending the pub-
 20 lic educational institutions of the state;

21 (2) Provide recommendations, systems and training to assist public
 22 educational institutions at all levels for the safety and security of stu-
 23 dents;

24 (3) Enhance the safety and security resources available to public edu-
 25 cational institutions;

26 (4) Ensure that periodic security assessments of statewide public edu-
 27 cational institutions are conducted and reported;

28 (5) Ensure that surveys are conducted and research information is re-
 29 ported to appropriate parties;

30 (6) Promote the use of technical methods, devices and improvements to
 31 address school security;

32 (7) Encourage the recognition of security design to be incorporated in
 33 future construction or renovation of public educational institutions; and

34 (8) Provide written reports of security assessments to appropriate
 35 school administrative authorities.

36 ~~33-5803~~5903. DEFINITION. For the purposes of this chapter, "public
 37 educational facility" means all structures and buildings existing now or
 38 constructed in the future that are owned, leased or used by public edu-
 39 cational institutions, which include public colleges, public community
 40 colleges, public universities, public school districts, public charter
 41 schools, or a school for children in any grades kindergarten through 12 that
 42 is operated by the state of Idaho receiving state funding.

43 ~~33-5804~~5904. OFFICE OF SCHOOL SAFETY AND SECURITY. (1) There is hereby
 44 established in the Idaho division of building safety the office of school

1 safety and security. The administrator of the division of building safety
2 may hire a manager of the office of school safety and security who shall be
3 responsible for the performance of the regular administrative functions of
4 the office and other duties as the administrator may direct. The manager of
5 the office of school safety and security shall be a nonclassified employee.
6 The administrator of the division of building safety may employ persons in
7 addition to the manager in other positions or capacities as he or she deems
8 necessary to fulfill the responsibilities of the office of school safety and
9 security as set forth in this section. The administrator shall provide an
10 office, office equipment and facilities as may be reasonably necessary for
11 the proper performance of the duties of the office manager and other office
12 personnel.

13 (2) The administrator of the division of building safety and the man-
14 ager and other personnel of the office of school safety and security may en-
15 ter all public educational facilities in this state at reasonable times to
16 conduct annual assessments for consistency with the school safety and secu-
17 rity guidelines developed by the Idaho school safety and security advisory
18 board. To the extent possible, such assessments should occur simultaneously
19 with inspections conducted pursuant to section 39-8008, Idaho Code. The of-
20 fice of school safety and security shall prepare a written report for each
21 security assessment it conducts. At a minimum, such reports shall include
22 any safety or security vulnerabilities found in the subject school and rec-
23 ommendations for remedying such vulnerabilities. The office shall provide a
24 copy of the report to the local education agency and to the school principal
25 or president. The office shall also prepare an annual report, a copy of which
26 shall be submitted to the state board of education and to the Idaho school
27 safety and security advisory board each year.

28 (3) Upon request of any public educational institution, the office of
29 school safety and security shall provide training and technical assistance
30 on best practices and resources for school safety and security as set forth
31 in the guidelines established by the Idaho school safety and security advi-
32 sory board.

33 (4) The Idaho division of building safety may receive grant moneys on
34 behalf of the office of school safety and security to carry out the responsi-
35 bilities of the office.

36 (5) On July 1 of each year, or as soon as practicable, the state con-
37 troller shall transfer three hundred thousand dollars (\$300,000) from the
38 public school income fund to the division of building safety's miscellaneous
39 revenue fund 0349 for the purposes of this section.

40 ~~33-58055905~~. IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD. (1)
41 There is hereby established in the Idaho division of building safety the
42 Idaho school safety and security advisory board. The advisory board shall
43 consist of thirteen (13) members as follows:

44 (a) Four (4) members appointed by the governor as follows:

- 45 (i) One (1) parent of a student who attends an Idaho public
46 school;
47 (ii) One (1) teacher who teaches in an Idaho public school;
48 (iii) One (1) representative of a local school board; and
49 (iv) One (1) representative of school superintendents;

1 (b) One (1) representative from the office of the state superintendent
2 of public instruction;

3 (c) One (1) representative from the state board of education;

4 (d) One (1) representative from the Idaho state police;

5 (e) One (1) representative from the Idaho chiefs of police association;

6 (f) One (1) representative from the Idaho sheriffs' association;

7 (g) One (1) representative from the Idaho ~~bureau of homeland security~~
8 office of emergency management;

9 (h) One (1) representative from the Idaho fire chiefs association; and

10 (i) Two (2) representatives from the state legislature that shall in-
11 clude one (1) member from the senate appointed by the president pro tem-
12 pore of the senate and one (1) member from the house of representatives
13 appointed by the speaker of the house of representatives.

14 (2) The members of the advisory board shall serve the following terms:

15 (a) The gubernatorial appointees shall serve terms of three (3) years.

16 (b) All other members shall serve terms of two (2) years.

17 (3) A vacancy on the advisory board shall be filled in the same manner as
18 the original appointment and for the balance of the unexpired term.

19 (4) The advisory board shall appoint a chairperson from among its mem-
20 bers for a term certain.

21 (5) The members of the advisory board shall be compensated as provided
22 in section 59-509(b), Idaho Code.

23 (6) The advisory board shall meet at least annually, but may meet more
24 frequently subject to the call of the chairperson.

25 ~~33-5806~~5906. POWERS AND DUTIES OF THE IDAHO SCHOOL SAFETY AND SECURITY
26 ADVISORY BOARD. The Idaho school safety and security advisory board shall:

27 (1) Develop, annually review and modify, if necessary, school safety
28 and security guidelines for the office of school safety and security to use
29 in conducting its annual assessments, training and technical assistance
30 pursuant to section ~~33-5804~~5904, Idaho Code;

31 (2) Regularly assess safety and security resources that may be used in
32 public educational facilities; and

33 (3) On or before February 1 of each year, report to the legislature and
34 to the governor on the status of school safety and security in the Idaho pub-
35 lic educational facilities.

36 SECTION 17. That Section 39-3133, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 39-3133. EXECUTIVE COMMITTEE OF THE REGIONAL BEHAVIORAL HEALTH
39 BOARDS. Each regional behavioral health board shall annually elect from
40 within its membership an executive committee of five (5) members empowered
41 to make fiscal, legal and business decisions on behalf of the full board or
42 join with another governmental entity that can fulfill the same management
43 infrastructure function. If the regional behavioral health board elects to
44 create its own internal executive committee, the membership shall be repre-
45 sentative of the regional behavioral health board membership and must, at
46 a minimum, include one (1) mental health consumer or advocate and one (1)
47 substance use disorder consumer or advocate. The executive committees or

1 the partner public entity shall have the power and duty, on behalf of the
2 regional behavioral health boards, to:

3 (1) Establish a fiscal control policy as required by the state con-
4 troller;

5 (2) Enter into contracts and grants with other governmental and private
6 agencies, and this chapter hereby authorizes such other agencies to enter
7 into contracts with the regional behavioral health boards, as deemed neces-
8 sary to fulfill the duties imposed upon the board to promote and sustain the
9 ability of individuals with behavioral health disorders to live in the com-
10 munity and avoid institutionalization;

11 (3) Develop and maintain bylaws as necessary to establish the process
12 and structure of the board; and

13 (4) Employ and fix the compensation, subject to the provisions of chap-
14 ter 53, title 67, Idaho Code, of such personnel as may be necessary to carry
15 out the duties of the regional behavioral health boards.

16 All meetings of the executive committee shall be held in accordance with
17 the open meetings law as provided for in chapter 23, title 67, Idaho Code.

18 SECTION 18. That Section 39-3134, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 39-3134. REGIONAL BEHAVIORAL HEALTH BOARD -- MEMBERS -- TERMS -- AP-
21 POINTMENT. A regional behavioral health board for each region shall consist
22 of twenty-two (22) members and shall be appointed as provided herein. All
23 meetings of the regional behavioral health board shall be held in accordance
24 with the open meetings law as provided for in chapter 23, title 67, Idaho
25 Code. Members shall be comprised of the following: three (3) county commis-
26 sioners or their designee; two (2) department of health and welfare employ-
27 ees who represent the behavioral health system within the region; one (1)
28 parent of a child with a serious emotional disturbance; one (1) parent of a
29 child with a substance use disorder; a law enforcement officer; one (1) adult
30 mental health services consumer representative; one (1) mental health adv-
31ocate; one (1) substance use disorder advocate; one (1) adult substance use
32 disorder services consumer representative; one (1) family member of an adult
33 mental health services consumer; one (1) family member of an adult substance
34 use disorder services consumer; a private provider of mental health services
35 within the region; a private provider of substance use disorder services
36 within the region; a representative of the elementary or secondary public
37 education system within the region; a representative of the juvenile justice
38 system within the region; a representative of the adult correction system
39 within the region; a representative of the judiciary appointed by the admin-
40 istrative district judge; a physician or other licensed health practitioner
41 from within the region; and a representative of a hospital within the region.
42 The consumer, parent and family representatives shall be selected from nomi-
43 nations submitted by behavioral health consumer and advocacy organizations.
44 The board may have nonvoting members as necessary to fulfill its roles and
45 responsibilities. The board shall meet at least twice each year, and shall
46 annually elect a chairperson and other officers as it deems appropriate.

47 On the effective date of this chapter, the appointing authority in
48 each region shall be a committee composed of the chairperson of the board
49 of county commissioners of each of the counties within the region, the cur-

1 rent chair of the regional mental health board and the current chair of the
2 regional advisory committee and, after the initial appointment of members
3 to the regional behavioral health board, the current chair of the regional
4 behavioral health board and one (1) representative of the department of
5 health and welfare. The committee shall meet annually or as needed to fill
6 vacancies on the board.

7 The appointing authority in each region shall determine if members of
8 the regional mental health board and the regional advisory committee who are
9 serving on the effective date of this chapter may continue to serve until the
10 end of the current term of their appointment or they may end all current ap-
11 pointments and create the board membership based upon the requirements of
12 this section. If the appointing authority decides to allow current members
13 of the board to serve out their current terms, appointments made after the
14 effective date of this chapter shall be made in a manner to achieve the repre-
15 sentation provided in this section as soon as reasonably practical.

16 The term of each member of the board shall be for four (4) years; pro-
17 vided however, that of the members first appointed, one-third (1/3) from
18 each region shall be appointed for a term of two (2) years; one-third (1/3)
19 for a term of three (3) years; and one-third (1/3) for a term of four (4)
20 years. After the membership representation required in this section is
21 achieved, vacancies shall be filled for the unexpired term in the same manner
22 as original appointments. Board members shall be compensated as provided
23 for in section 59-509(b), Idaho Code, and such compensation shall be paid
24 from the operating budget of the regional behavioral health board as re-
25 sources allow.

26 SECTION 19. That Chapter 93, Title 39, Idaho Code, as enacted by Section
27 1, Chapter 168, Laws of 2016, be, and the same is hereby amended to read as
28 follows:

29 CHAPTER 934
30 RIGHT TO TRY ACT

31 39-~~9301~~9401. SHORT TITLE. This chapter shall be known and may be cited
32 as the "Right to Try Act."

33 39-~~9302~~9402. LEGISLATIVE INTENT. It is the intent of the legislature
34 to provide the opportunity for terminally ill patients to have access to cer-
35 tain investigational treatments without requiring another party, including
36 a physician, manufacturer, insurer or government agency, to offer, provide
37 or pay for such treatments. By enacting this chapter, the legislature in-
38 tends only to permit these treatments to terminally ill patients in Idaho.
39 It is not the intent of the legislature to create an obligation but to ensure
40 that all persons or parties availing themselves of this chapter do so volun-
41 tarily. Due to the experimental nature of these treatments, it is further
42 the intent of the legislature to protect physicians and other parties from
43 civil, criminal or professional liability relating to the treatments.

44 39-~~9303~~9403. DEFINITIONS. As used in this chapter:

45 (1) "Eligible patient" or "patient" means an individual who has a ter-
46 minal illness and has:

1 (a) Considered all other treatment options currently approved by the
2 United States food and drug administration;

3 (b) Received a recommendation from the patient's treating physician
4 for an investigational drug, biological product or device for purposes
5 related to the terminal illness;

6 (c) Given written, informed consent for the use of the recommended in-
7 vestigational drug, biological product or device; and

8 (d) Received documentation from the eligible patient's treating physi-
9 cian that the eligible patient meets the requirements of this subsec-
10 tion.

11 (2) "Investigational drug, biological product or device" means a drug,
12 biological product or device that has successfully completed phase 1 of a
13 clinical trial but has not yet been approved for general use by the United
14 States food and drug administration and remains under investigation in a
15 United States food and drug administration-approved clinical trial.

16 (3) "Terminal illness" means a progressive disease or medical or surgi-
17 cal condition that:

18 (a) Entails functional impairment that significantly impacts the pa-
19 tient's activities of daily living;

20 (b) Is not considered by a treating physician to be reversible even with
21 administration of current United States food and drug administration-
22 approved and available treatments; and

23 (c) Without life-sustaining procedures, will soon result in death.

24 (4) "Written, informed consent" means a written document that is signed
25 by the eligible patient and, if the patient is a minor, a parent or legal
26 guardian, which document is attested to by the patient's physician and a wit-
27 ness and that includes the following:

28 (a) An explanation of the currently approved products and treatments
29 for the disease or condition from which the patient suffers;

30 (b) An attestation that the patient concurs with the patient's physi-
31 cian in believing that all currently approved and conventionally recog-
32 nized treatments are unlikely to prolong the patient's life;

33 (c) Clear identification of the specific proposed investigational
34 drug, biological product or device that the patient is seeking to use;

35 (d) A description of the potentially best and worst outcomes of using
36 the investigational drug, biological product or device and a realistic
37 description of the most likely outcome. The description shall include
38 the possibility that new, unanticipated, different or worse symptoms
39 might result and that death could be hastened by the proposed treatment.
40 The description shall be based on the physician's knowledge of the pro-
41 posed treatment in conjunction with an awareness of the patient's con-
42 dition;

43 (e) A statement that the patient's health plan or third-party adminis-
44 trator and provider are not obligated to pay for any care or treatments
45 consequent to the use of the investigational drug, biological product
46 or device unless specifically required to do so by law or contract;

47 (f) A statement that the patient's eligibility for hospice care might
48 be withdrawn if the patient begins curative treatment with the investi-
49 gational drug, biological product or device and that care may be rein-

1 stated if the treatment ends and the patient meets hospice eligibility
2 requirements; and

3 (g) A statement that the patient understands that the patient is re-
4 sponsible for all expenses consequent to the use of the investigational
5 drug, biological product or device and that this liability extends to
6 the patient's estate unless a contract between the patient and the manu-
7 facturer of the drug, biological product or device states otherwise.

8 39-93049404. INVESTIGATIONAL DRUGS -- RIGHT TO TRY AND PRO-
9 VIDE. (1) An eligible patient may request, and a manufacturer may make
10 available to an eligible patient under the supervision of the patient's
11 treating physician, the manufacturer's investigational drug, biological
12 product or device, which drug, product or device shall be clearly labeled as
13 investigational; provided however, that this chapter does not require that a
14 manufacturer make available an investigational drug, biological product or
15 device to an eligible patient.

16 (2) A manufacturer may:

17 (a) Provide an investigational drug, biological product or device to an
18 eligible patient without receiving compensation; or

19 (b) Require an eligible patient to pay the costs associated with the
20 manufacture of the investigational drug, biological product or device.

21 39-93059405. NO COVERAGE OBLIGATION. (1) This chapter does not expand
22 the coverage required of an insurer under the laws of this state.

23 (2) A health plan, third-party administrator or government agency may,
24 but is not required to, provide coverage for the cost of an investigational
25 drug, biological product or device or the cost of services related to the use
26 of an investigational drug, biological product or device.

27 (3) This chapter does not require any health plan, third-party adminis-
28 trator or government agency to pay costs associated with the use of an inves-
29 tigational drug, biological product or device.

30 (4) This chapter does not require a hospital or facility licensed in
31 this state to provide new or additional services unless such services are ap-
32 proved by the hospital or facility.

33 39-93069406. HEIRS NOT LIABLE FOR TREATMENT DEBT. If a patient dies
34 while being treated by an investigational drug, biological product or de-
35 vice under the terms of this chapter, the patient's heirs are not liable for
36 any outstanding debt related to the treatment or lack of insurance due to the
37 treatment.

38 39-93079407. PROHIBITIONS. (1) A licensing board or disciplinary body
39 of this state shall not revoke, fail to renew, suspend or take any action
40 against a health care provider's license based solely on the provider's rec-
41 ommendations to an eligible patient regarding access to or treatment with
42 an investigational drug, biological product or device as allowed under this
43 act.

44 (2) An entity responsible for medicare certification shall not take ac-
45 tion against a health care provider's medicare certification based solely
46 on the health care provider's recommendation that a patient have access to

1 an investigational drug, biological product or device as allowed under this
2 act.

3 (3) An official, employee or agent of this state shall not block or at-
4 tempt to block an eligible patient's access to an investigational drug, bio-
5 logical product or device as allowed under this act.

6 ~~39-9308~~9408. LIMITATIONS. (1) This chapter does not create a private
7 cause of action against a manufacturer of an investigational drug, biologi-
8 cal product or device or against a physician or any other person or entity in-
9 volved in the care of an eligible patient using an investigational drug, bio-
10 logical product or device for any harm done to the eligible patient resulting
11 from the investigational drug, biological product or device, provided that
12 the manufacturer, physician, or person or entity has exercised reasonable
13 care and complied in good faith with the terms of this chapter.

14 (2) This chapter does not create a private cause of action against a
15 treating physician who refuses to recommend an investigational drug, bio-
16 logical product or device to a patient with a terminal illness.

17 ~~39-9309~~9409. MANDATORY COVERAGE NOT AFFECTED. This chapter does not
18 affect any mandatory health care coverage for participation in clinical tri-
19 als provided elsewhere by law.

20 SECTION 20. That Section 41-307, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 41-307. AUTHORIZATION FOR INVESTMENT PURPOSES ONLY. A foreign insurer
23 may make investments in this state without certificate of authority as pro-
24 vided by section ~~30-1-1501~~ 30-21-502, Idaho Code. Such an insurer shall not
25 be subject to any other provision of this code.

26 SECTION 21. That Section 41-332, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 41-332. FOREIGN INSURERS EXEMPT FROM CORPORATION LAWS GOVERNING AD-
29 MISSION OF FOREIGN CORPORATIONS. A foreign insurer authorized to transact
30 insurance in this state and fully complying with this code shall be exempt
31 from complying with the provisions of sections ~~30-1-1501~~ 30-21-501 through
32 ~~30-1-1532~~ 30-21-512, Idaho Code.

33 SECTION 22. That Section 41-342, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 41-342. REDOMESTICATION AS A DOMESTIC INSURER -- CONVERSION TO FOR-
36 EIGN INSURER. (1) Any insurer which is organized under the laws of any other
37 state and is admitted to do business in this state for the purpose of writing
38 insurance may become a domestic insurer by complying with all of the require-
39 ments of law relative to the organization and licensing of a domestic insurer
40 of the same type and by designating its principal place of business at a place
41 in Idaho in compliance with section 41-2839, Idaho Code. Such a domestic in-
42 surer shall be entitled to a certificate of redomestication and a certifi-

1 cate of authority to transact business in this state, and shall have the same
2 rights and obligations as other domestic insurers of this state.

3 (2) Any domestic insurer may, upon the approval of the director, trans-
4 fer its domicile to any other state in which it is admitted to transact the
5 business of insurance. Upon such a transfer, the insurer shall cease to be a
6 domestic insurer. If the insurer is otherwise qualified, the director shall
7 admit the insurer to this state as a foreign insurer. The director shall ap-
8 prove any such proposed transfer unless he determines that such a transfer is
9 not in the interest of the policyholders of the insurer in this state. After
10 the director has approved the transfer, the director shall provide written
11 notice to the secretary of state that the insurer has transferred its domi-
12 cile to another state, stating the effective date of the transfer and the
13 state to which the insurer has transferred its domicile. Upon receipt of the
14 written notice from the director and the payment of the fee required in sec-
15 tion ~~30-1-122~~ 30-21-214, Idaho Code, the secretary of state shall file the
16 notice and, on the effective date of the transfer, terminate the existence of
17 the insurance company as a domestic corporation.

18 (3) The certificate of authority, appointment of statutory agent and
19 licenses, policy forms, rates, authorizations and other filings and ap-
20 provals in existence at the time an insurer admitted to transact insurance
21 in this state transfers its corporate domicile to this or any other state,
22 continue in effect upon the transfer of corporate domicile. All rates and
23 outstanding policies of any transferring insurer shall remain in full force
24 and effect and policies need not be endorsed as to the new domicile unless
25 so ordered by the director. Every transferring insurer shall either file
26 new policy forms for use in this state with the director on or before the
27 effective date of the transfer, or use existing policy forms in this state
28 with appropriate endorsements as allowed by, and under such conditions as
29 may be approved by the director. Every transferring insurer shall notify
30 the director of the proposed transfer, and shall promptly file any resulting
31 amendments to its corporate documents required to be filed with the direc-
32 tor.

33 SECTION 23. That Section 41-343, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 41-343. ARTICLES OF REDOMESTICATION. (1) Upon receiving approval un-
36 der section 41-342, Idaho Code, articles of redomestication shall be exe-
37 cuted in duplicate by an insurance corporation by its president or a vice
38 president and by its secretary or an assistant secretary and verified by one
39 (1) of the officers of the corporation and shall set forth:

40 (a) The date of approval of the director of the Idaho department of in-
41 surance of the redomestication; and

42 (b) The state in which the insurer was originally incorporated, the
43 date the insurer was incorporated in that state, and the date the in-
44 surer was authorized to do business as an insurer in the state in which
45 it was originally incorporated.

46 (2) The insurer shall attach to the articles of redomestication:

47 (a) Articles of incorporation including such amendments as may be re-
48 quired to comply with the requirements of ~~section 30-1-54~~ part 10, chap-
49 ter 29, title 30, Idaho Code;

1 (b) A copy of the certificate of redomestication issued by the director
2 of the Idaho department of insurance.

3 (3) Duplicate originals of the articles of redomestication shall be de-
4 livered to the secretary of state. If the secretary of state finds that such
5 articles conform to law, he shall, when all fees have been paid as prescribed
6 in chapter 21, title 30, Idaho Code:

7 (a) Endorse on each of such duplicate originals the ~~work~~ word "Filed,"
8 and the month, day and year of the filing, together with the date from
9 which the insurer has existed and operated as an insurer which shall be
10 the date the insurer was originally incorporated in the state in which
11 the insurer was originally incorporated;

12 (b) File one (1) of such duplicate originals in his office; and

13 (c) Issue a certificate ~~of~~ of redomestication setting forth the date on
14 which the articles of redomestication were filed and the date from which
15 the insurer has existed and operated as an insurer which shall be the
16 date the insurer was originally incorporated in the state in which the
17 insurer was originally incorporated.

18 (4) The certificate of redomestication, together with the duplicate
19 original of the articles of redomestication affixed thereto by the secretary
20 of state, shall be returned to the insurer or to its representative.

21 SECTION 24. That Section 41-2803, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 41-2803. APPLICABILITY OF GENERAL CORPORATION STATUTES. (1) The ap-
24 plicable statutes of this state relating to the powers and procedures of do-
25 mestic private corporations formed for profit shall apply to domestic stock
26 insurers and to domestic mutual insurers, except where in conflict with the
27 express provisions of this code and the reasonable implications of such pro-
28 visions.

29 (2) Domestic stock insurers and domestic mutual insurers are exempt
30 from the provisions of section ~~30-1-1622~~ 30-21-213, Idaho Code.

31 SECTION 25. That Section 41-2804, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 41-2804. INCORPORATION. (1) This section applies to stock and mutual
34 insurers hereafter incorporated in this state.

35 (2) Incorporators. Seven (7) or more individuals who are citizens of
36 this state may incorporate a stock insurer; ten (10) or more of such individ-
37 uals may incorporate a mutual insurer.

38 (3) Articles of incorporation. The incorporators shall prepare and ex-
39 ecute in triplicate articles of incorporation in accordance with the appli-
40 cable provisions of chapters 21 and 30, title 30, Idaho Code, known as the
41 "General Business Corporation" laws of this state, but subject to the fol-
42 lowing requirements:

43 (a) In addition to matters required or permitted under such general
44 business corporation laws which are not inconsistent with this provi-
45 sion or this code, the articles of incorporation shall set forth:

46 (i) The name of the corporation, which shall comply with section
47 41-311, Idaho Code.

1 (ii) The kinds of insurance, as defined in this code, which the
2 corporation is formed to transact.

3 (iii) If a stock corporation, its authorized capital stock, the
4 number of shares of stock into which divided and the par value
5 of each such share, which par value shall be at least one dollar
6 (\$1.00). Shares without par value shall not be authorized.

7 (iv) If a stock corporation, the extent, if any, to which shares of
8 its stock are subject to assessment.

9 (v) If a mutual corporation, the maximum contingent liability of
10 its members, for payment of losses and expenses incurred, other
11 than as to nonassessable policies issued as permitted under sec-
12 tion 41-2849, Idaho Code; such liability shall be as stated in the
13 articles of incorporation, but shall not be less than one (1) nor
14 more than six (6) annual premiums for the member's policy.

15 (vi) The name and residence address of each incorporator, and
16 whether each such incorporator is a citizen of this state.

17 (b) Articles of incorporation shall be filed as provided in section
18 41-2805, Idaho Code.

19 SECTION 26. That Section 41-3824, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 41-3824. MUTUAL INSURANCE HOLDING COMPANIES.

22 (1) (a) A domestic mutual insurer, upon approval of the director, may
23 reorganize by forming an insurance holding company system, which shall
24 be designated as "a mutual insurance holding company," based upon a
25 mutual insurance company plan and continuing the corporate existence
26 of the reorganizing insurer as a stock insurer. The director, after a
27 public hearing as provided in section 41-3806, Idaho Code, if satisfied
28 that the interests of the policyholders are properly protected and that
29 the plan of reorganization is fair and equitable to the policyholders,
30 may approve the proposed plan of reorganization and may require as a
31 condition of approval such modifications of the proposed plan of reor-
32 ganization as the director finds necessary for the protection of the
33 policyholders' interests. The director may retain consultants for this
34 purpose as provided in section 41-3806(5), Idaho Code. A reorganiza-
35 tion pursuant to this section is subject to the requirements of sections
36 41-3804 and 41-3805, Idaho Code. The director shall retain jurisdic-
37 tion over a mutual insurance holding company organized pursuant to this
38 section to assure that policyholder interests are protected.

39 (b) All of the initial shares of the capital stock of the reorganized
40 insurer shall be issued to the mutual insurance holding company. The
41 membership interests of the policyholders of the reorganized insurer
42 shall become membership interests in the mutual insurance holding com-
43 pany. Policyholders of the reorganized insurer shall be members of the
44 mutual insurance holding company in accordance with the articles of in-
45 corporation and bylaws of the mutual insurance holding company. The mu-
46 tual insurance holding company shall at all times own a majority of the
47 voting shares of the capital stock of the reorganized insurer.

48 (2) (a) A domestic mutual insurer, upon the approval of the director,
49 may reorganize by merging its policyholders' membership interests into

1 a mutual insurance holding company formed pursuant to subsection (1) of
2 this section and continuing the corporate existence of the reorganizing
3 insurer as a stock insurer subsidiary of the mutual insurance holding
4 company. The director, after a public hearing as provided in section
5 41-3806, Idaho Code, if satisfied that the interests of the policyhold-
6 ers are properly protected and that the merger is fair and equitable to
7 the policyholders, may approve the proposed merger and may require as a
8 condition of approval such modifications of the proposed merger as the
9 director finds necessary for the protection of the policyholders' in-
10 terests. For this purpose, the director may retain consultants as pro-
11 vided in section 41-3806(5), Idaho Code. A merger pursuant to this sub-
12 section is subject to sections 41-3804 and 41-3805, Idaho Code. The di-
13 rector shall retain jurisdiction over the mutual insurance holding com-
14 pany organized pursuant to this section to assure that policyholder in-
15 terests are protected.

16 (b) All of the initial shares of the capital stock of the reorganized
17 insurer shall be issued to the mutual insurance holding company. The
18 membership interests of the policyholders of the reorganized insurance
19 company shall become membership interests in the mutual insurance hold-
20 ing company. Policyholders of the reorganized insurer shall be members
21 of the mutual insurance holding company in accordance with the articles
22 of incorporation and bylaws of the mutual insurance holding company.
23 The mutual insurance holding company shall at all times own a majority
24 of the voting shares of the capital stock of the reorganized insurer.
25 A merger of policyholders' membership interests in a mutual insurer
26 into a mutual insurance holding company shall be deemed to be a merger
27 of insurance companies pursuant to section 41-2857, Idaho Code, and is
28 subject to the requirements of section 41-2857, Idaho Code.

29 (c) A foreign mutual insurer that is a domestic insurer organized under
30 chapter 3, title 41, Idaho Code, may reorganize upon the approval of
31 the director and in compliance with the requirements of any law or rule
32 applicable to the foreign mutual insurer by merging its policyholders'
33 membership interests into a mutual insurance holding company formed
34 pursuant to subsection (1) of this section and continuing the corporate
35 existence of the reorganizing foreign mutual insurer as a foreign stock
36 insurer subsidiary of the mutual insurance holding company. The direc-
37 tor, after a public hearing as provided in section 41-3806, Idaho Code,
38 may approve the proposed merger. The director may retain consultants
39 as provided in section 41-3806(5), Idaho Code. A merger pursuant to
40 this paragraph is subject to the requirements of sections 41-3804 and
41 41-3805, Idaho Code. The reorganizing foreign mutual insurer may re-
42 main a foreign company or foreign corporation after the merger and may
43 be admitted to do business in this state, upon approval by the director.
44 A foreign mutual insurer that is a party to the merger may at the same
45 time redomesticate in this state by complying with the applicable re-
46 quirements of this state and its state of domicile. The provisions of
47 ~~subsection (2) paragraph~~ (b) of this subsection shall apply to a merger
48 authorized under this paragraph.

49 (3) A mutual insurance holding company resulting from the reorganiza-
50 tion of a domestic mutual insurer organized under chapter 21, title 30, Idaho

1 Code, shall be incorporated pursuant to chapter 21, title 30, Idaho Code.
2 This requirement shall supersede any conflicting provisions of chapter 21,
3 title 30, Idaho Code. The articles of incorporation and any amendments to
4 such articles of the mutual insurance holding company shall be subject to ap-
5 proval of the director in the same manner as those of an insurance company.

6 (4) A mutual insurance holding company is deemed to be an insurer sub-
7 ject to chapter 33, title 41, Idaho Code, and shall automatically be a party
8 to any proceeding under chapter 33, title 41, Idaho Code, involving an in-
9 surer that, as a result of a reorganization pursuant to subsection (1) or (2)
10 of this section, is a subsidiary of the mutual insurance holding company.
11 In any proceeding under chapter 33, title 41, Idaho Code, involving the re-
12 organized insurer, the assets of the mutual insurance holding company are
13 deemed to be assets of the estate of the reorganized insurer for purposes of
14 satisfying the claims of the reorganized insurer's policyholders. A mutual
15 insurance holding company shall not be dissolved or liquidated without the
16 prior approval of the director or as ordered by the district court pursuant
17 to chapter 33, title 41, Idaho Code.

18 (5) (a) Section 41-2855, Idaho Code, is not applicable to a reorganiza-
19 tion or merger pursuant to this section.

20 (b) Section 41-2855, Idaho Code, is applicable to demutualization of
21 a mutual insurance holding company that resulted from the reorganiza-
22 tion of a domestic mutual insurer organized pursuant to chapter 3, title
23 41, Idaho Code, as if the domestic mutual insurer were a mutual life in-
24 surer.

25 (6) A membership interest in a domestic mutual insurance holding com-
26 pany shall not constitute a security as defined in section 30-14-102(28),
27 Idaho Code.

28 (7) The majority of the voting shares of the capital stock of the reor-
29 ganized insurer, which is required by this section to be at all times owned
30 by a mutual insurance holding company, shall not be conveyed, transferred,
31 assigned, pledged, subject to a security interest or lien, encumbered or
32 otherwise hypothecated or alienated by the mutual insurance holding company
33 or intermediate holding company. Any conveyance, transfer, assignment,
34 pledge, security interest, lien, encumbrance, hypothecation or alienation
35 of, in or on the majority of the voting shares of the reorganized insurer that
36 is required by this section to be at all times owned by a mutual insurance
37 holding company, is in violation of the provisions of this section and shall
38 be void in inverse chronological order of the date of such conveyance, trans-
39 fer, assignment, pledge, security interest, lien, encumbrance or hypothe-
40 cation or alienation, as to the shares necessary to constitute a majority of
41 such voting shares. The majority of the voting shares of the capital stock of
42 the reorganized insurer that is required by this section to be at all times
43 owned by a mutual insurance holding company shall not be subject to execution
44 and levy as provided in title 11, Idaho Code. The shares of the capital stock
45 of the surviving or new company resulting from a merger or consolidation of
46 two (2) or more reorganized insurers or two (2) or more intermediate holding
47 companies that were subsidiaries of the same mutual insurance holding com-
48 pany are subject to the same requirements, restrictions and limitations as
49 provided in this section to which the shares of the merging or consolidating

1 reorganized insurers or intermediate holding companies were subject as pro-
2 vided in this section prior to the merger or consolidation.

3 (a) As used in this section, "majority of the voting shares of the capi-
4 tal stock of the reorganized insurer" means shares of the capital stock
5 of the reorganized insurer that carry the right to cast a majority of the
6 votes entitled to be cast by all of the outstanding shares of the capi-
7 tal stock of the reorganized insurer for the election of directors and
8 on all other matters submitted to a vote of the shareholders of the re-
9 organized insurer. The ownership of a majority of the voting shares of
10 the capital stock of the reorganized insurer that is required pursuant
11 to this section to be at all times owned by a parent mutual insurance
12 holding company includes indirect ownership through one (1) or more in-
13 termediate holding companies in a corporate structure approved by the
14 director. However, indirect ownership through one (1) or more interme-
15 diate holding companies shall not result in the mutual insurance hold-
16 ing company owning less than the equivalent of a majority of the voting
17 shares of the capital stock of the reorganized insurer. The director
18 shall have jurisdiction over an intermediate holding company as if it
19 were a mutual insurance holding company.

20 (b) As used in this section, "intermediate holding company" means a
21 holding company that is a subsidiary of a mutual insurance holding
22 company and that either directly or through a subsidiary intermediate
23 holding company has one (1) or more subsidiary-reorganized insurers of
24 which a majority of the voting shares of the capital stock would other-
25 wise have been required pursuant to this section to be at all times owned
26 by the mutual insurance holding company.

27 (8) It is the intent of the legislature that the formation of a mutual
28 insurance holding company shall not increase the Idaho tax burden of the mu-
29 tual insurance holding company system and that a stock insurance subsidiary
30 shall continue to be subject to Idaho insurance premium taxation in lieu of
31 all other taxes except real property taxes as provided in section 41-405,
32 Idaho Code. Subject to approval by the director as required under Idaho law,
33 a stock insurance subsidiary may issue dividends or distributions to the mu-
34 tual insurance holding company or any intermediate holding company and such
35 dividends or distributions shall be excluded from the Idaho taxable income
36 of the recipients; provided however, that such exclusion shall not apply if,
37 in the year preceding the year in which the dividends or distributions were
38 made, the subsidiary insurer's liability for Idaho premium tax was less than
39 the amount of Idaho income tax, computed after allowance for income tax cred-
40 its, for which the insurer would have been liable in such year had the insurer
41 been subject to Idaho income taxation rather than premium taxation.

42 SECTION 27. That Section 41-4934, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 41-4934. PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT. (1) Nei-
45 ther the administrator nor any other person having responsibility for the
46 management of the trust fund or the investment or other handling of the trust
47 fund moneys or assets shall:

48 (a) Receive directly or indirectly or be pecuniarily interested in
49 any fee, commission, compensation or emolument, other than salary or

1 other similar compensation regularly fixed and allowed for services
2 regularly rendered to the trust fund, arising out of any transaction to
3 which the trust fund is or is to be a party;

4 (b) Receive compensation as a consultant to the trust fund while also
5 acting as a trustee or administrator, or as an employee of either;

6 (c) Have any direct or indirect material pecuniary interest in any loan
7 or investment of the trust fund.

8 (2) The director may, after reasonable notice and a hearing, prohibit
9 the administrator from employing or retaining or continuing to employ or re-
10 tain any person in the administration of the trust fund upon finding that
11 such employment or retention involves a conflict of interest not in the best
12 interests of the trust fund or adversely affecting the interests of the own-
13 ers or operators insured by the trust fund.

14 (3) Any conflict of interest or prohibited pecuniary interest involv-
15 ing the members of the board of trustees of the trust fund shall be governed
16 solely by the conflict of interest provisions of the Idaho nonprofit corpo-
17 ration act as set forth in section ~~30-3-81~~ 30-30-619, Idaho Code.

18 SECTION 28. That Section 41-6104, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 41-6104. ESTABLISHMENT OF THE EXCHANGE AND THE BOARD. (1) There is
21 hereby created an independent body corporate and politic to be known as the
22 "Idaho Health Insurance Exchange." Said exchange may exercise the authority
23 and powers conferred by this chapter and such exercise shall be deemed and
24 held to be the performance of an essential public function.

25 (2) The exchange created by this chapter is not a state agency, shall
26 not be subject to the purchasing statutes and rules of the state of Idaho or
27 subdivisions of the state including, but not limited to, chapters 28 and 57,
28 title 67, Idaho Code, and shall operate subject to the supervision and con-
29 trol of its board.

30 (3) The board shall consist of nineteen (19) total members, with seven-
31 teen (17) voting members. Subject to the provisions of this section, members
32 of the board shall collectively offer expertise, knowledge and experience in
33 health benefits administration, health care finance, health plan purchas-
34 ing, health care delivery system administration, public health and health
35 policy issues related to small employer and individual markets and the unin-
36 sured. A majority of the board shall not collectively represent health car-
37 riers and producers. The fourteen (14) voting members who are not members
38 of the legislature shall be appointed to the board by, and serve at the plea-
39 sure of, the governor. The members appointed to the board by the governor
40 shall be subject to confirmation by the senate, provided that, upon appoint-
41 ment, board members shall have full authority to exercise all the rights and
42 duties, and participate in all decisions, required of the position. The sev-
43 enteen (17) voting members of the board shall be appointed as follows:

44 (a) Three (3) members representing different health carriers appointed
45 by the governor;

46 (b) Two (2) members representing producers appointed by the governor;

47 (c) Three (3) members representing individual consumer interests ap-
48 pointed by the governor;

1 (d) Four (4) members representing small employer business interests
2 appointed by the governor with, at the time of appointment:

3 (i) One (1) member representing small employer business inter-
4 ests employing between one (1) and ten (10) employees;

5 (ii) One (1) member representing small employer business inter-
6 ests employing between eleven (11) and twenty-five (25) employ-
7 ees;

8 (iii) One (1) member representing small employer business inter-
9 ests employing twenty-six (26) or more employees; and

10 (iv) One (1) at-large member;

11 (e) Two (2) members representing health care providers appointed by the
12 governor;

13 (f) One (1) member of the house of representatives appointed by the
14 speaker of the house;

15 (g) One (1) member of the senate appointed by the president pro tempore;
16 and

17 (h) One (1) member of the legislature representing the minority party
18 in the legislature appointed by minority leadership.

19 The director or his designee and the director of the state department of
20 health and welfare or his designee shall each serve as ex officio nonvoting
21 members of the board.

22 (4) The fourteen (14) board members appointed by the governor shall
23 each serve a term of four (4) years or until a successor is appointed. A board
24 member may be appointed by the governor to serve subsequent terms. A vacancy
25 in a member's position on the board shall be filled in the same manner as the
26 original appointment.

27 (5) Whenever a member of the board has a conflict of interest on a matter
28 that is before the board, the member shall fully disclose it to the board,
29 abstain from any vote on the matter and shall also comply with any additional
30 requirements established pursuant to the plan of operation under section
31 41-6105, Idaho Code.

32 (6) Neither members of the board nor any other person working or per-
33 forming services for the exchange shall be:

34 (a) Considered public officials, employees or agents of the state of
35 Idaho by virtue of their service on the board or performance of services
36 for the exchange; or

37 (b) Eligible for or entitled to benefits from the public employee re-
38 tirement system of Idaho.

39 (7) Nothing in this chapter shall prevent a member of the board who is
40 otherwise a current or former state employee from receiving his usual state
41 compensation and benefits while serving on the board.

42 (8) All meetings of the board shall be held in accordance with the open
43 meetings law as provided for in chapter 23, title 674, Idaho Code, shall be
44 held in an open public forum, and every reasonable effort shall be made to
45 make such meetings televised or streamed in video and audio format.

46 (9) The board shall contract for an annual audit of the exchange by an
47 independent third party and shall accept requests for proposal to bid on such
48 contract.

49 (10) The board shall develop, adopt and implement procurement policies
50 and guidelines.

1 (11) Premium rates charged by a health carrier for a health benefit plan
2 or stand-alone dental plan offered in the exchange shall be based upon Idaho
3 rating areas established by the director consistent with 42 U.S.C. section
4 300gg, et seq.

5 SECTION 29. That Section 50-2913, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 50-2913. URBAN RENEWAL AGENCY PLANS -- REPORTING INFORMATION REQUIRED
8 -- PENALTIES FOR FAILURE TO REPORT. In addition to the provisions applicable
9 to urban renewal agencies in chapters 20 and 29, title 50, Idaho Code, the
10 provisions of this section shall also apply to urban renewal agencies. For
11 purposes of this section, "urban renewal agency" shall have the same meaning
12 as provided in chapters 20 and 29, title 50, Idaho Code.

13 (1) (a) There is hereby established a central registry with the state
14 tax commission. The registry shall serve as the unified location for
15 the reporting of and access to administrative and financial information
16 of urban renewal plans in this state. To establish a complete list of
17 all urban renewal plans of urban renewal agencies operating in Idaho, on
18 the effective date of this act and so that the registry established will
19 be comprehensive, every urban renewal agency shall register with the
20 state registry. For calendar year 2017, the submission of information
21 required by subsection (2) of this section shall occur prior to March 1,
22 2017, and shall be in the form and format required by the state tax com-
23 mission. In addition to the information required by this section for
24 the March 1, 2017, filing deadline, the entity shall report the date of
25 its last adoption or amendment or modification of an urban renewal plan.
26 The registry listing will be available on the state tax commission web-
27 site by July 1, 2017.

28 (b) The state tax commission shall notify each urban renewal agency of
29 the requirements of this section.

30 (c) After March 1, and on or before December 1 of each year, the county
31 clerk of each county shall submit a list to the state tax commission of
32 all urban renewal agencies within the county.

33 (2) On or before December 1 of each year, every urban renewal agency
34 shall submit to the central registry the following information each urban
35 renewal plan adopted or modified pursuant to sections 50-2008 and 50-2905,
36 Idaho Code, and any modifications or amendments to those plans.

37 (a) Within five (5) days of submitting to the central registry the in-
38 formation required by this section, the urban renewal agency shall no-
39 tify the agency's appointing authority, if the entity has an appointing
40 authority, that it has submitted such information.

41 (b) If any information provided by an entity as required by this section
42 changes during the year, the entity shall update its information on the
43 registry within thirty (30) days of any such change.

44 (3) Notification and penalties.

45 (a) If an urban renewal agency fails to submit information required by
46 this section or submits noncompliant information required by this sec-
47 tion, the state tax commission shall notify the entity immediately af-
48 ter the due date of the information that either the information was not
49 submitted in a timely manner or the information submitted was noncom-

1 pliant. The urban renewal agency shall then have thirty (30) days from
2 the date of notice to submit the information or notify the state tax com-
3 mission that it will comply by a time certain.

4 (b) No later than September 1 of any year, the state tax commission
5 shall notify the appropriate board of county commissioners and city
6 council of the entity's failure to comply with the provisions of this
7 section. Upon receipt of such notification, the board of county commis-
8 sioners shall place a public notice in a newspaper of general circula-
9 tion in the county indicating that the entity is noncompliant with the
10 legal reporting requirements of this section. The county commissioners
11 shall assess to the entity the cost of the public notice. Such costs may
12 be deducted from any distributions of tax increment financing of the
13 urban renewal agency. For any noncomplying urban renewal agency, the
14 state tax commission shall notify the board of county commissioners and
15 city council of the compliance status of such entity by September 1 of
16 each year until the entity is in compliance.

17 (c) An urban renewal agency that fails to comply with this section shall
18 have any property tax revenue that exceeds the amount received in the
19 immediate prior tax year distributed to the taxing districts located in
20 or overlapping any revenue allocation area within that urban renewal
21 district. Said distribution shall be based on each taxing district's
22 proportionate share of the increment value in the current tax year mul-
23 tiplied by the taxing district's current levy rate, reduced proportion-
24 ately to match the excess to be so apportioned. Any money so received
25 by any taxing district shall be treated as property tax revenue for the
26 purposes of the limitation provided by section 63-802, Idaho Code.

27 (d) In addition to any other penalty provided in this section, in any
28 failure to comply with this section, the state tax commission shall
29 withhold the annual distribution of sales tax distribution pursuant to
30 section 63-3638(13), Idaho Code, for any noncomplying urban renewal
31 agency. The state tax commission shall withhold and retain such money
32 in a reserve account until an urban renewal agency has complied with
33 the provisions of this section, at which point the state tax commission
34 shall pay any money owed to an urban renewal agency that was previously
35 in violation of this section to the urban renewal agency.

36 (e) For any urban renewal agency, upon notification to the board of
37 county commissioners from the state tax commission of noncompliance by
38 such entity, the board of county commissioners shall convene to deter-
39 mine appropriate compliance measures including, but not limited to, the
40 following:

41 (i) Require a meeting of the board of county commissioners and the
42 urban renewal agency's governing body wherein the board of county
43 commissioners shall require compliance of this section by the en-
44 tity; and

45 (ii) Assess a noncompliance fee on the noncomplying urban renewal
46 agency. Such fee shall not exceed five thousand dollars (\$5,000).
47 Such fees and costs may be deducted from any distributions of the
48 tax increment financing. Any fee collected shall be deposited
49 into the county's current expense fund.

1 (54) The provisions of this section shall have no impact or effect upon
2 reporting requirements for local governing entities relating to the state
3 tax commission. The state tax commission may allow compliance with this sec-
4 tion by the posting of links to an urban renewal agency's website for the
5 posting of plans.

6 SECTION 30. That Section 55-115, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in
9 this section:

10 (a) "Homeowner's association" shall have the same meaning as in section
11 45-810(6), Idaho Code.

12 (b) "Board" means the entity that has the duty of governing the associ-
13 ation that may be referred to as the board of directors, executive board
14 or any such similar name.

15 (c) "Member" or "membership" means any person or entity owning or pos-
16 sessed an interest in residential real property or lot within the phys-
17 ical boundaries of an established homeowner's association.

18 (2) No fine may be imposed for a violation of the covenants and restric-
19 tions pursuant to the rules or regulations of the homeowner's association
20 unless the authority to impose a fine is clearly set forth in the covenants
21 and restrictions and:

22 (a) A majority vote by the board shall be required prior to imposing any
23 fine on a member for a violation of any covenants and restrictions pur-
24 suant to the rules and regulations of the homeowner's association.

25 (b) Written notice by personal service or certified mail of the meeting
26 during which such vote is to be taken shall be made to the member at least
27 thirty (30) days prior to the meeting.

28 (c) In the event the member begins resolving the violation prior to the
29 meeting, no fine shall be imposed ~~so~~ as long as the member continues to
30 address the violation in good faith until fully resolved.

31 (d) No portion of any fine may be used to increase the remuneration of
32 any board member or agent of the board.

33 (e) No part of this section shall affect any statute, rule, covenant,
34 bylaw, provision or clause that may allow for the recovery of attorney's
35 fees.

36 (3) No homeowner's association may add, amend or enforce any covenant,
37 condition or restriction in such a way that limits or prohibits the rental,
38 for any amount of time, of any property, land or structure thereon within
39 the jurisdiction of the homeowner's association, unless expressly agreed to
40 in writing at the time of such addition or amendment by the owner of the af-
41 fected property. Nothing in this section shall be construed to prevent the
42 enforcement of valid covenants, conditions or restrictions limiting a prop-
43 erty owner's right to transfer his interest in land or the structures thereon
44 ~~so~~ as long as that covenant, condition or restriction applied to the property
45 at the time the homeowner acquired his interest in the property.

46 (34) Attorney's fees and costs shall not accrue and shall not be as-
47 sessed or collected by the homeowner's association until the homeowner's as-
48 sociation has complied with the requirements of subsection (2) of this sec-
49 tion and the member has failed to address the violation as prescribed in sub-

1 section (2) (c) of this section. A court of competent jurisdiction may de-
 2 termine the reasonableness of attorney's fees and costs assessed against a
 3 member. In an action to determine the reasonableness of attorney's fees and
 4 costs assessed by the homeowner's association against a member, the court
 5 may award reasonable attorney's fees and costs to the prevailing party.

6 SECTION 31. That Section 61-313, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 61-313. SCHEDULE CHARGES ONLY PERMITTED. Except as in this act other-
 9 wise provided, no public utility shall charge, demand, collect or receive a
 10 greater or ~~less~~ lesser or different compensation from any product or commod-
 11 ity furnished or to be furnished or for any service rendered or to be ren-
 12 dered, than the rates, tolls, rentals and charges applicable to such product
 13 or commodity or service as specified in its schedules on file and in effect
 14 at the time, nor shall any such public utility refund or remit, directly or
 15 indirectly, in any manner or by any device, any portion of the rates, tolls,
 16 rentals and charges so specified nor extended to any corporation or person
 17 any form of contract or agreement or any rule or regulation of any facility
 18 or privilege except such as are specified in such schedules and as are reg-
 19 ularly and uniformly extended to all corporations and persons: provided,
 20 that messages by telephone or cable, subject to the provisions of this act,
 21 may be classified by the utility into day, night, repeated, unrepeated, let-
 22 ter, commercial, press, government and such other classes of messages: pro-
 23 vided further, that nothing in this chapter shall be construed to prevent
 24 telephone and cable companies from entering into contract with common carri-
 25 ers for the exchange of service at rates common to all common carriers of like
 26 class.

27 SECTION 32. That Section 63-602D, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 63-602D. PROPERTY EXEMPT FROM TAXATION -- CERTAIN HOSPITALS. (1) For
 30 the purposes of this section, "hospital" means a hospital as defined by chap-
 31 ter 13, title 39, Idaho Code, and includes one (1) or more acute care, out-
 32 reach, satellite, outpatient, ancillary or support facilities of such hospi-
 33 tal whether or not any such individual facility would independently sat-
 34 isfy the definition of hospital.

35 (2) The following property is exempt from taxation: the real property
 36 owned and personal property, including medical equipment, owned or leased by
 37 a hospital corporation or a county hospital or hospital district ~~which~~ that
 38 is operated as a hospital and the necessary grounds used therewith.

39 (3) If real property, not currently exempt from taxation, is being pre-
 40 pared for use as a hospital, the value of the bare land only shall be taxed
 41 while the property is being prepared for use as a hospital. All improvements
 42 to and construction on the real property, while it is being prepared for use
 43 as a hospital, shall be exempt from taxation. For purposes of this section,
 44 property is being "prepared for use as a hospital" if the corporation has be-
 45 gun construction of a hospital project as evidenced by obtaining a building
 46 permit that will, on completion, qualify such property for an exemption and,
 47 as of the assessment date, has not abandoned the construction. Construc-

1 tion shall not be considered abandoned if it has been delayed by causes and
 2 circumstances beyond the corporation's control or when delay is caused by
 3 an event that has occurred in the absence of the corporation's willful ne-
 4 glect or intentional acts, omissions or practices engaged in by the corpora-
 5 tion for the purpose of impeding progress. Notwithstanding the foregoing,
 6 in no event shall improvements to property that is being prepared for use as
 7 a hospital qualify for an exemption from ad valorem property tax under this
 8 subsection for more than three (3) consecutive tax years; upon completion of
 9 construction and obtaining a certificate of occupancy, the entire real prop-
 10 erty shall be exempt from taxation if the corporation meets the requirements
 11 of subsection (4) of this section; provided, property already exempt or el-
 12 igible for exemption shall not be affected by the provisions of this subsec-
 13 tion.

14 (4) The corporation must show that the hospital:

15 (a) Is organized as a nonprofit corporation pursuant to chapter 30, ti-
 16 tle 30, Idaho Code, or pursuant to equivalent laws in its state of incor-
 17 poration;

18 (b) Has received an exemption from taxation from the ~~I~~nternal ~~R~~evenue
 19 ~~S~~ervice pursuant to section 501(c) (3) of the Internal Revenue Code.

20 (5) The board of equalization shall grant an exemption to the property
 21 of: (a) a county hospital; (b) a hospital district; or (c) any hospital cor-
 22 poration meeting the criteria provided in subsection (4) of this section.

23 (6) If a hospital corporation uses property for business purposes from
 24 which a revenue is derived ~~which that~~ is not directly related to the hospital
 25 corporation's exempt purposes, then the property shall be assessed and taxed
 26 as any other property. If property is used in part by a hospital corporation
 27 for such purposes, then the assessor shall determine the value of the entire
 28 property and the value of the part used that is not directly related to the
 29 hospital corporation's exempt purposes. If the value of the part ~~which that~~
 30 is not directly related to the hospital corporation's exempt purposes is de-
 31 termined to be three percent (3%) or less than the value of the entire prop-
 32 erty, then the property shall remain exempt. If the value of the part ~~which~~
 33 ~~that~~ is not directly related to the hospital corporation's exempt purposes
 34 is determined to be more than three percent (3%) of the value of the entire
 35 property, then the assessor shall assess the proportionate part of the prop-
 36 erty, including the value of the real estate used for such purposes.

37 (7) A hospital corporation issued an exemption from property taxation
 38 pursuant to this section and operating a hospital having one hundred fifty
 39 (150) or more patient beds shall prepare a community benefits report to be
 40 filed with the board of equalization by December 31 of each year. The report
 41 shall itemize the hospital's amount of unreimbursed services for the prior
 42 year (including charity care, bad debt, and underreimbursed care covered
 43 through government programs); special services and programs the hospital
 44 provides below its actual cost; donated time, funds, subsidies and in-kind
 45 services; additions to capital such as physical plant and equipment; and in-
 46 dication of the process the hospital has used to determine general community
 47 needs ~~which that~~ coincide with the hospital's mission. The report shall be
 48 provided as a matter of community information. Neither the submission of
 49 the report nor the contents shall be a basis for the approval or denial of a
 50 corporation's property tax exemption.

1 SECTION 33. That Section 63-602GG, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 63-602GG. PROPERTY EXEMPT FROM TAXATION -- LOW-INCOME HOUSING OWNED
4 BY NONPROFIT ORGANIZATIONS. (1) As provided in this section, low-income
5 housing owned by nonprofit organizations shall be exempt from taxation.

6 (2) In order to qualify as a nonprofit organization under this section,
7 an organization must demonstrate that:

8 (a) It is organized as a nonprofit corporation pursuant to chapter 30,
9 title 30, Idaho Code, or pursuant to equivalent laws in the applicable
10 state of incorporation; and

11 (b) It has received an exemption from taxation from the internal rev-
12 enue service pursuant to section 501(c)(3) of the Internal Revenue
13 Code; and

14 (c) No proceeds or tax benefits of the organization or from the low-in-
15 come housing property owned by the organization shall inure to any indi-
16 vidual or for-profit entity other than normal employee compensation.

17 (3) In order to qualify for the exemption provided in this section, the
18 low-income housing property shall meet the following qualifications:

19 (a) Both legal and equitable title to the property is solely owned by
20 the nonprofit organization seeking the exemption and is managed by the
21 owner or a related nonprofit organization qualifying for the exemption
22 set forth in section 63-602C, Idaho Code; and

23 (b) Tenants shall not be evicted based upon their inability to pay for
24 a period of three (3) months if such inability is due to a catastrophic
25 event that is not under the tenant's control. For purposes of this sub-
26 section, "catastrophic event" means a medical condition or injury in
27 which sudden, serious and unexpected symptoms of illness or injury are
28 sufficiently severe to render the tenant unable to participate in em-
29 ployment and such illness or injury has been certified by one (1) or more
30 licensed physicians and/or psychiatrists or psychologists. The term
31 "catastrophic event" does not apply to individuals who voluntarily re-
32 move themselves from the workforce; and

33 (c) Except for a manager's unit, all of the housing units in the low-in-
34 come housing property are dedicated to low-income housing in the fol-
35 lowing manner: Fifty-five percent (55%) of the units shall be rented
36 to those earning sixty percent (60%) or less of the median income for
37 the county in which the housing is located; twenty percent (20%) of the
38 units shall be rented to those earning fifty percent (50%) or less of the
39 median income of the county in which the housing is located; and twenty-
40 five percent (25%) of the units shall be rented to those earning thirty
41 percent (30%) or less of the median income for the county in which the
42 housing is located.

43 (4) The exemption provided in this section shall not apply:

44 (a) If the project is financed after the effective date of this act and
45 applicable law permits the payment of property taxes with federal or
46 state funds, grants, loans or subsidies; or

47 (b) If the property is receiving federal project-based assistance,
48 as provided by 42 U.S.C. sections 1437f(d)(2), 1437f(f)(6) and
49 1437f(o)(13); or

1 (c) To any property used by a taxpayer to qualify for tax credits under
 2 the provisions of 26 U.S.C. chapter 42 or any successor programs until
 3 such time as the property is solely owned by a nonprofit organization as
 4 defined in this section and is no longer utilized to receive federal tax
 5 credits.

6 (5) Notwithstanding any other provision of this section, a low-income
 7 housing property shall be exempt from taxation due to undue hardship if:

8 (a) The property was financed prior to the effective date of this act;
 9 and

10 (b) Such financing was dependent upon the tax-exempt status of the
 11 property; and

12 (c) The law does not allow additional federal or state revenues to be
 13 available for the payment of property taxes.

14 (6) Nothing in this section shall affect the qualification of proper-
 15 ties for tax-exempt status under other provisions of title 63, Idaho Code.

16 SECTION 34. That Section 67-7702, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 67-7702. DEFINITIONS. As used in this chapter:

19 (1) "Bingo" means the traditional game of chance played for a prize de-
 20 termined prior to the start of the game.

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

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

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

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

34 (3) "Charitable organization" means an organization that has been in
 35 continuous existence in the county of operation of the charitable bingo game
 36 or raffle for at least one (1) year, that conducts charitable activities, and
 37 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
 38 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code
 39 and is exempt from income taxation under title 63, Idaho Code, as a bona fide
 40 nonprofit charitable, civic, religious, fraternal, patriotic or veterans
 41 organization or as a nonprofit volunteer fire department, or as a nonprofit
 42 volunteer rescue squad, or as a nonprofit volunteer educational booster
 43 group, parent-teacher organization or association. If the organization has
 44 local branches or chapters, the term "charitable organization" means the
 45 local branch or chapter operating the bingo or raffle game.

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

48 (5) "Duck race" means a charitable raffle played by releasing numbered,
 49 inanimate toys (ducks) into a body of moving water. A person who has been as-

1 signed the same number as the first duck to cross a predetermined point in the
2 water (the finish line) is the winner. Other prizes may be awarded on the ba-
3 sis of the order in which the ducks cross the finish line. With the exception
4 of determining "net proceeds," all restrictions and requirements applicable
5 to the conduct of charitable raffles in this chapter shall also apply to the
6 conduct of duck races.

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

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

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

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

19 (iii) Compares the numbers entered by the bingo player to the num-
20 bers contained on bingo cards previously stored in the electronic
21 database of the device;

22 (iv) Identifies winning bingo patterns; and

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

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

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

43 (9) "Host system" means the computer hardware, software and peripheral
44 equipment of a licensed manufacturer ~~which that~~ is used to generate and down-
45 load electronic bingo cards to a licensed organization's site system, ~~and~~
46 ~~which that~~ monitors sales and other activities of a site system.

47 (10) "Nonprofit organization" means an organization incorporated under
48 chapter 30, title 30, Idaho Code.

49 (11) "Organization" means a charitable organization or a nonprofit or-
50 ganization.

1 (12) "Person" shall be construed to mean and include an individual, as-
 2 sociation, corporation, club, trust, estate, society, company, joint stock
 3 company, receiver, trustee, assignee, referee or any other person acting
 4 in a fiduciary or representative capacity, whether appointed by a court or
 5 otherwise, and any combination of individuals. "Person" shall also be con-
 6 strued to mean and include departments, commissions, agencies and instru-
 7 mentalities of the state of Idaho, including counties and municipalities and
 8 agencies or instrumentalities thereof.

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

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

14 (15) "Site system" means the computer hardware, software and peripheral
 15 equipment used by a licensed organization at the site of its bingo session
 16 ~~which that~~ provides electronic bingo cards or bingo card monitoring devices
 17 to players, and ~~which that~~ receipts the sale or rental of such cards and de-
 18 vices and generates reports relative to such sales or rentals.

19 (16) "Vendor" means an applicant, licensee or manufacturer, distribu-
 20 tor or supplier, licensed or unlicensed, that furnishes or supplies bingo or
 21 raffle equipment, disposable or nondisposable cards, and any and all related
 22 gaming equipment.

23 SECTION 35. That Section 67-7711, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organ-
 26 ization not exempt pursuant to section 67-7713, Idaho Code, desiring to op-
 27 erate bingo sessions or games or charitable raffles shall make application
 28 for a license to the state lottery. The state lottery shall review the li-
 29 cense application and shall approve or deny the issuing of a license within
 30 fifteen (15) calendar days of receipt of the license application. The state
 31 lottery may deny the application if it determines that the applicant has not
 32 met requirements for an application imposed in this chapter and rules pro-
 33 mulgated pursuant to this chapter or upon any ground for which an application
 34 for renewal of a license could be denied or for which an existing licensee's
 35 license could be revoked or suspended. Whenever an application is denied,
 36 it shall be returned to the applicant by the state lottery with specific rea-
 37 sons for the denial. When a license application is approved by the state lot-
 38 tery, the state lottery shall issue a license to the applicant. No person or
 39 charitable or nonprofit organization, except those exempt pursuant to sec-
 40 tion 67-7713, Idaho Code, shall operate or conduct a bingo session or game
 41 or charitable raffle until it has received a license from the state lottery.
 42 The license shall expire one (1) year after the date it was issued.

43 (2) Each application and renewal application shall contain the follow-
 44 ing information:

45 (a) The name, address, date of birth, driver's license number and so-
 46 cial security number of the applicant and, if the applicant is a corpo-
 47 ration, association or other similar legal entity, the name, home ad-
 48 dress, date of birth, driver's license number and social security num-
 49 ber of each of the officers of the organization, as well as the name and

1 address of the directors, or other persons similarly situated, of the
2 organization;

3 (b) The name, home address, date of birth, driver's license number and
4 social security number of each ~~of the~~ person or persons responsible for
5 managing the bingo session or game or raffle;

6 (c) (i) In the case of charitable organizations, a copy of the applica-
7 tion for recognition of exemptions and a determination letter from
8 the internal revenue service that indicates ~~that~~ the organization
9 is a charitable organization and ~~stating~~ states the section under
10 which that exemption is granted, except that if the organization
11 is a state or local branch, lodge, post or chapter of a national or-
12 ganization, a copy of the determination letter of the national or-
13 ganization shall satisfy this requirement; and

14 (ii) In the case of incorporated nonprofit organizations, a copy
15 of a certificate of existence issued by the secretary of state pur-
16 suant to chapter 30, title 30, Idaho Code, establishing the organ-
17 ization's good standing in the state.

18 (d) The location at which the applicant will conduct the bingo session
19 or games or drawings for the raffles.

20 (3) The operation of bingo sessions or games or charitable raffles
21 shall be the direct responsibility of, and controlled by, the governing
22 body of the organization and the members of the governing body shall be held
23 responsible for the conduct of the bingo sessions or games or raffles. No
24 directors or officers of an organization or persons related to them either
25 by marriage or blood within the second degree shall receive any compensation
26 derived from the proceeds of a bingo session or raffle regulated under the
27 provisions of this chapter. An organization shall not contract with any per-
28 son for the purpose of conducting a bingo session or providing bingo services
29 or conducting a raffle on the organization's behalf, provided that this
30 prohibition does not prevent a bingo organization from hiring employees and
31 paying wages as provided in section 67-7709(1) (d) (ii), Idaho Code. However,
32 if the state lottery commission has entered into an agreement or contract
33 with another state for the operation or promotion of joint bingo sessions,
34 the charitable or nonprofit organization may participate in that contract or
35 agreement.

36 (4) Different chapters of an organization may apply for and share one
37 (1) license to conduct raffles ~~so~~ as long as the information required in sub-
38 section (2) of this section is provided to the lottery prior to the issuance
39 of the license.

40 (5) The organization may apply for the license to coincide with the or-
41 ganization's fiscal year.

42 SECTION 36. That Section 67-8903, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 67-8903. DEFINITIONS. When used in this chapter, the following terms
45 shall have the following meanings:

46 (1) "Authority" means the Idaho energy resources authority created
47 pursuant to section 67-8904, Idaho Code.

48 (2) "Board" means the board of directors of the authority.

1 (3) "Bonds" means any bonds, notes, certificates or other obligations
2 or evidences of indebtedness issued by the authority.

3 (4) "Commission" means the Idaho public utilities commission created
4 pursuant to section 61-201, Idaho Code.

5 (5) "Electric cooperative" means a cooperative corporation or associa-
6 tion ~~which that~~ is:

7 (a) Organized under the provisions of section 501(c) (12) or 1381 of the
8 Internal Revenue Code;

9 (b) ~~Is a~~An Idaho nonprofit corporation pursuant to chapter 30, title
10 30, Idaho Code; and

11 (c) ~~Is a~~An operating entity or successor entity thereof ~~which that~~ owns
12 facilities and provides electric service to customers in Idaho as of the
13 effective date of this chapter.

14 (6) "Facility" means any facility necessary, used or useful in connec-
15 tion with the generation, transmission or distribution of electric power and
16 energy and any renewable energy generation project, in each case including,
17 but not limited to, all real and personal property, fuel supplies and trans-
18 portation facilities, pollution control facilities, and all equipment and
19 improvements necessary or desirable in connection with a facility. "Facil-
20 ity" shall include facilities owned in whole or in part by the authority or
21 a participating utility, including undivided ownership interests in facil-
22 ities, leasehold interests in facilities and other estates, but excludes
23 a generating facility that sells any portion of its output as a qualifying
24 facility to a participating utility under provisions of the public utility
25 regulatory policies act of 1978, 16 U.S.C. section 2601 et seq.

26 (7) "Independent power producer" means any public or private corpora-
27 tion ~~which that~~ is not itself a participating utility, but which may be an af-
28 filiate of a participating utility, that develops any renewable energy gen-
29 eration project undertaken by the authority pursuant to this chapter.

30 (8) "Participating utility" means, with respect to any facilities un-
31 dertaken by the authority pursuant to this chapter, any public or private
32 corporation, electric cooperative or other cooperative corporation or asso-
33 ciation, municipal corporation, political subdivision of this state or an-
34 other state, state or federal agency, joint operating entity or other entity
35 that:

36 (a) Owns and operates an electric utility system that provides elec-
37 tric services to consumers of electricity located in an existing ser-
38 vice area within the boundaries of this state;

39 (b) Provides electric generation, power supply, transmission and/or
40 ancillary and related services at wholesale to one (1) or more partic-
41 ipating utilities described in paragraph (a) of this subsection; or

42 (c) Is organized or operates as a regional transmission organization
43 covering all or any part of the state of Idaho and one (1) or more other
44 states.

45 (9) "Renewable energy" means a source of energy that occurs naturally,
46 is regenerated naturally or uses as a fuel source, a waste product or byprod-
47 uct from a manufacturing process including, but not limited to, open or
48 closed-loop biomass, fuel cells, geothermal energy, waste heat, cogenera-
49 tion, solar energy, waterpower and wind.

1 (10) "Renewable energy generation project" means an electric generat-
2 ing facility or system that uses renewable energy as its primary source of
3 energy to generate electricity.

4 (11) "Revenues" means all receipts, purchase payments, loan repay-
5 ments, lease payments, rents, fees and charges, and all other income or
6 receipts derived by the authority from a participating utility.

7 SECTION 37. That Section 74-107, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION
10 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records
11 are exempt from disclosure:

12 (1) Trade secrets including those contained in response to public
13 agency or independent public body corporate and politic requests for pro-
14 posal, requests for clarification, requests for information and similar
15 requests. "Trade secrets" as used in this section means information, in-
16 cluding a formula, pattern, compilation, program, computer program, device,
17 method, technique, process, or unpublished or in-progress research that:

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

22 (b) Is the subject of efforts that are reasonable under the circum-
23 stances to maintain its secrecy.

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

32 (3) Records relating to the appraisal of real property, timber or min-
33 eral rights prior to its acquisition, sale or lease by a public agency or in-
34 dependent public body corporate and politic.

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

39 (5) Examination, operating or condition reports and all documents re-
40 lating thereto, prepared by or supplied to any public agency or independent
41 public body corporate and politic responsible for the regulation or supervi-
42 sion of financial institutions including, but not limited to, banks, savings
43 and loan associations, regulated lenders, business and industrial develop-
44 ment corporations, credit unions, and insurance companies, or for the regu-
45 lation or supervision of the issuance of securities.

46 (6) Records gathered by a local agency or the Idaho department of com-
47 merce, as described in chapter 47, title 67, Idaho Code, for the specific
48 purpose of assisting a person to locate, maintain, invest in, or expand busi-
49 ness operations in the state of Idaho.

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

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

9 (9) Names and addresses of seed companies, seed crop growers, seed crop
10 consignees, locations of seed crop fields, variety name and acreage by vari-
11 ety. Upon the request of the owner of the proprietary variety, this infor-
12 mation shall be released to the owner. Provided however, that if a seed crop
13 has been identified as diseased or has been otherwise identified by the Idaho
14 department of agriculture, other state departments of agriculture, or the
15 United States department of agriculture to represent a threat to that par-
16 ticular seed or commercial crop industry or to individual growers, infor-
17 mation as to test results, location, acreage involved and disease symptoms
18 of that particular seed crop, for that growing season, shall be available
19 for public inspection and copying. This exemption shall not supersede the
20 provisions of section 22-436, Idaho Code, nor shall this exemption apply to
21 information regarding specific property locations subject to an open burn-
22 ing of crop residue pursuant to section 39-114, Idaho Code, names of persons
23 responsible for the open burn, acreage and crop type to be burned, and time
24 frames for burning.

25 (10) Information obtained from books, records and accounts required in
26 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-
27 mission and pertaining to the individual production records of oilseed grow-
28 ers.

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

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

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

1 (14) Voluntarily prepared environmental audits, and voluntary disclo-
2 sures of information submitted on or before December 31, 1997, to an environ-
3 mental agency, which are claimed to be confidential business information.

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

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

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

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

18 (16) Active investigative records and trademark usage audits of the
19 Idaho potato commission specifically relating to the enforcement of chapter
20 12, title 22, Idaho Code, until the commencement of formal proceedings as
21 provided by rules of the commission; purchase and sales information sub-
22 mitted to the Idaho potato commission during a trademark usage audit, and
23 investigation or enforcement proceedings. Inactive investigatory records
24 shall be disclosed unless the disclosure would violate the standards set
25 forth in subsection (1) (a) through (f) of section 74-124, Idaho Code. Noth-
26 ing in this subsection shall limit the use which can be made, or availability
27 of such information if used, for regulatory purposes or its admissibility in
28 any enforcement proceeding.

29 (17) All records copied or obtained by the director of the department of
30 agriculture or his designee as a result of an inspection pursuant to section
31 25-3806, Idaho Code, except:

32 (a) Records otherwise deemed to be public records not exempt from dis-
33 closure pursuant to this chapter; and

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

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

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

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

48 (21) Records, data, information and materials collected or utilized
49 during the course of academic research at public institutions of higher ed-

1 ucation provided by any person or entity other than the public institution
2 of higher education or a public agency.

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

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

16 (24) Records of a county assessor, the state tax commission, a county
17 board of equalization or the state board of tax appeals containing the fol-
18 lowing information: (i) lists of personal property required to be filed pur-
19 suant to section 63-302, Idaho Code, and operating statements required to
20 be filed pursuant to section 63-404, Idaho Code, and (ii) confidential com-
21 mercial or financial information including trade secrets. Except with re-
22 spect to lists of personal property required to be filed pursuant to section
23 63-302, Idaho Code, and the operator statements required to be filed pur-
24 suant to section 63-404, Idaho Code, it shall be the responsibility of the
25 taxpayer to give notice of its claim to exemption by stamping or marking each
26 page or the first page of each portion of documents so claimed. No records
27 that are exempt pursuant to this subsection shall be disclosed without the
28 consent of the taxpayer except as follows:

29 (a) To any officer, employee or authorized representative of the state
30 or the United States, under a continuing claim of confidentiality, as
31 necessary to carry out the provisions of state or federal law or when
32 relevant to any proceeding thereunder.

33 (b) In the publication of statistics or reports as long as the statis-
34 tics or reports do not reasonably lead to the identification of the spe-
35 cific taxpayer or information submitted by taxpayers exempt pursuant to
36 this subsection.

37 (c) To the board of tax appeals or the district court as evidence or
38 otherwise in connection with an appeal of the taxpayer's property tax
39 assessment, but only if the board or the court, as applicable, has en-
40 tered a protective order specifying that the taxpayer information may
41 not be disclosed by any person conducting or participating in the action
42 or proceeding, except as authorized by the board or the court in accor-
43 dance with applicable law.

44 (d) Nothing in this subsection shall prevent disclosure of the follow-
45 ing information:

- 46 (i) Name and mailing address of the property owner;
- 47 (ii) A parcel number;
- 48 (iii) A legal description of real property;
- 49 (iv) The square footage and acreage of real property;
- 50 (v) The assessed value of taxable property;

1 (vi) The tax district and the tax rate; and

2 (vii) The total property tax assessed.

3 (25) Results of laboratory tests which have no known adverse impacts to
4 human health conducted by the Idaho state department of agriculture animal
5 health laboratory, related to diagnosis of animal diseases of individual an-
6 imals or herds, on samples submitted by veterinarians or animal owners un-
7 less:

8 (a) The laboratory test results indicate the presence of a state or fed-
9 erally reportable or regulated disease in animals;

10 (b) The release of the test results is required by state or federal law;
11 or

12 (c) The test result is identified as representing a threat to animal or
13 human health or to the livestock industry by the Idaho state department
14 of agriculture or the United States department of agriculture. Nothing
15 in this subsection shall limit the use which can be made, or availabil-
16 ity of such information if used, for regulatory purposes or its admis-
17 sibility in any enforcement proceeding, or the duty of any person to re-
18 port contagious or infectious diseases as required by state or federal
19 law.

20 (26) Results of laboratory tests conducted by the Idaho state depart-
21 ment of agriculture seed laboratory on samples submitted by seed producers
22 or seed companies. Nothing in this subsection shall limit the use which can
23 be made, or availability of such information pursuant to the provisions of
24 subsections (9) and (10) of section 22-418, Idaho Code.

25 (27) For policies that are owned by private persons, and not by a public
26 agency of the state of Idaho, records of policies, endorsements, affidavits
27 and any records that discuss policies, endorsements and affidavits that may
28 be required to be filed with or by a surplus line association pursuant to
29 chapter 12, title 41, Idaho Code.

30 (28) Individual financial statements of a postsecondary educational
31 institution or a proprietary school submitted to the state board of educa-
32 tion, its director or a representative thereof, for the purpose of regis-
33 tering the postsecondary educational institution or proprietary school pur-
34 suant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an
35 administrative rule of the board adopted pursuant to such sections.

36 (29) Information submitted ~~to~~ by insurance companies pursuant to sec-
37 tion ~~421~~-612(17), Idaho Code.