

GENERAL LAWS
OF THE
STATE OF IDAHO



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SIXTY-FIFTH IDAHO LEGISLATURE**

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Volume 1

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

**Chairman Lakey
Senate Judiciary & Rules
Chairman Dayley
House Judiciary, Rules & Administration**

CHAPTER 1
(S.B. No. 1002)

AN ACT

RELATING TO THE APPROPRIATION TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 273, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Industrial Commission the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2018, through June 30, 2019, for the purpose of the Chinden Campus relocation:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. COMPENSATION:			
FROM:			
Industrial Administration			
Fund	\$132,800	\$489,800	\$622,600
II. CRIME VICTIMS COMPENSATION:			
FROM:			
Crime Victims Compensation			
Fund	\$13,100	\$85,000	\$98,100
III. ADJUDICATION:			
FROM:			
Industrial Administration			
Fund		\$126,700	\$126,700
GRAND TOTAL	\$145,900	\$701,500	\$847,400

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

Approved February 4, 2019

CHAPTER 2
(H.B. No. 13)

AN ACT

RELATING TO THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3004, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE INTERNAL REVENUE CODE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3004. INTERNAL REVENUE CODE. (a~~1~~) The term "Internal Revenue Code" means, ~~for taxable years beginning on any day of 2017, the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the twenty-first day of December 2017, except that Internal Revenue Code sections 965 and 213 are applied as in effect on December 31, 2017; and Internal Revenue Code sections 108, 163, 168(e), 168(i), 179D, 179E, 181, 199, 222 and 451 are applied as in effect on February 9, 2018. or after the first day of January~~

~~(b) The term "Internal Revenue Code" means, for taxable years beginning on or after the first day of January 2018, the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2018.~~

(e~~2~~) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.

(d~~3~~) Notwithstanding subsection (e~~2~~) of this section, marriages recognized and permitted by the United States supreme court and the ninth circuit court of appeals shall also be recognized for purposes of the Idaho income tax act.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2019.

Approved February 4, 2019

CHAPTER 3
(H.B. No. 28)

AN ACT

RELATING TO APPROPRIATIONS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$140,200 from the General Fund to the Pest Control Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

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

Approved February 4, 2019

CHAPTER 4
(S.B. No. 1016)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 308, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Idaho State Historical Society \$1,500,000 from the Miscellaneous Revenue Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of closing out contracts related to the Idaho State Museum.

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

Approved February 6, 2019

CHAPTER 5
(H.B. No. 20)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2019; REPURPOSING AN APPROPRIATION FOR SPECIFIC PROJECTS FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. REPURPOSING OF APPROPRIATION. Notwithstanding the provisions of Section 2, Chapter 297, Laws of 2017, and any other provision of law to the contrary, the \$10,000,000 appropriated to the Department of Administration for the Division of Public Works from the Permanent Building Fund for the Idaho State University Gale Life Sciences Building remodel may be used for the Idaho State University Eames Complex remodel.

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

Approved February 6, 2019

CHAPTER 6
(S.B. No. 1017)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 174, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Public Utilities Commission the following amounts to be expended according to the designated expense classes from the Public Utilities Commission Fund for the period July 1, 2018, through June 30, 2019, for the purpose of the Chinden Campus relocation:

FOR:

Operating Expenditures	\$1,692,700
Capital Outlay	<u>726,600</u>
TOTAL	\$2,419,300

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

Approved February 7, 2019

CHAPTER 7
(H.B. No. 36)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 136, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Commission for the Blind and Visually Impaired \$15,000 from the Adaptive Aids and Appliances Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of restocking its shelves with adaptive aids and appliances.

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

Approved February 8, 2019

CHAPTER 8
(H.B. No. 35)

AN ACT

RELATING TO THE APPROPRIATION TO THE MEDICAL BOARDS FOR FISCAL YEAR 2019;
APPROPRIATING ADDITIONAL MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR
2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 314, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Medical Boards the following amounts to be expended according to the designated programs and expense classes from the listed fund for the period July 1, 2018, through June 30, 2019, for the purpose of the Board of Medicine's licensing database completion and the Board of Nursing's retirement vacation payout:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. BOARD OF MEDICINE:			
FROM:			
State Regulatory			
Fund		\$178,500	\$178,500
II. BOARD OF NURSING:			
FROM:			
State Regulatory			
Fund	\$20,600		\$20,600
GRAND TOTAL	\$20,600	\$178,500	\$199,100

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

Approved February 8, 2019

CHAPTER 9
(H.B. No. 14)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3021, IDAHO CODE, TO REVISE A PROVISION REGARDING THE CALCULATION OF A NET OPERATING LOSS IN THE CASE OF A QUALIFIED BUSINESS INCOME DEDUCTION; AMENDING SECTION 63-3022, IDAHO CODE, TO ESTABLISH A PROVISION REGARDING THE CALCULATION OF IDAHO TAXABLE INCOME IN THE CASE OF A NET OPERATING LOSS CARRYFORWARD; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

(b) Add the following amounts:

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

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

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

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

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

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

(5) ~~Any amount limited by section 461~~ deduction allowed under section 199A of the Internal Revenue Code (relating to the deduction for qualified business income).

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

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

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

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

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

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code that are measured by net income, or for which a credit is allowable under section 63-3029, Idaho Code, and paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

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

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, but before January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. At the election of the taxpayer, the two (2) year carryback may be forgone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted.

(2) A net operating loss for any taxable year commencing on or after January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years only if an amended return carrying the loss back is filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback.

(3) Any portion of the net operating loss not subtracted from income in the two (2) preceding years may be subtracted from income in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. The carryback shall be limited to a total of fifty thousand dollars (\$50,000) in the case of an individual filing as married filing separate in the year of the loss.

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

(5) The term "income" as used in this subsection means Idaho taxable income as defined in this chapter as modified by section 63-3021(b) (2), (3) and (4), Idaho Code.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245, 245A, 246A, 250 and 965 of the Internal Revenue Code (relating to dividends received by corporations and other special deductions) as limited by section 246(b) (1) of said code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) In the case of an individual for any tax period ending on or prior to December 31, 2016, deduct the amount contributed to a college savings program but not more than four thousand dollars (\$4,000) per tax year. In the case of an individual and for any tax period starting on or after January 1, 2017, deduct the amount contributed to a college savings program, but not more than six thousand dollars (\$6,000) per tax year. For those married and filing jointly, deduct the amount contributed to a college savings program, but not more than twice of that allowed for an individual. To be qualified for this deduction, the contribution must be made during the taxable year and made to an Idaho college savings program account as described in chapter 54, title 33, Idaho Code.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code. The addition provided in this subsection is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income.

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

(q) Deduct any amount disallowed under section 461(1)(1)(B) of the Internal Revenue Code (relating to excess business losses) that is treated as part of the taxpayer's net operating loss carryforward for federal income tax purposes.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2019.

Approved February 8, 2019

CHAPTER 10
(H.B. No. 15)

AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3622AA, IDAHO CODE, TO EXEMPT PUBLIC RECORDS FEES FROM THE SALES OR USE TAX.

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

SECTION 1. That Section 63-3622AA, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622AA. EXEMPTION FOR OFFICIAL DOCUMENTS. (1) There is hereby exempted from the taxes imposed by this chapter the sale, purchase, or use of records, transcripts, deeds, licenses, reports, and other documents for which a fee, the amount of which is set by the Idaho Code, is imposed or charged.

(2) There is exempted from the taxes imposed by this chapter the sale, purchase, or use of public records requested pursuant to section 74-102, Idaho Code.

Approved February 8, 2019

CHAPTER 11
(S.B. No. 1025)

AN ACT

RELATING TO THE APPROPRIATION TO THE STEM ACTION CENTER FOR FISCAL YEAR 2019;
APPROPRIATING ADDITIONAL MONEYS TO THE STEM ACTION CENTER FOR FISCAL
YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 268, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the STEM Action Center \$1,000,000 from the STEM Education Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of spending private contributions.

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

Approved February 11, 2019

CHAPTER 12
(H.B. No. 16)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3035, IDAHO CODE, TO PROVIDE
UPDATED TERMINOLOGY REGARDING EMPLOYEE WITHHOLDING ALLOWANCES AND AL-
LOWANCE CERTIFICATES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING
AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) Shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be

liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

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

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

(4) Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars (\$240,000) per annum or an average of twenty thousand dollars (\$20,000) per month per annum, pay to the state tax commission on the basis of two (2) withholding periods. The first of which period shall begin on the first day of the month and end on the fifteenth day of the same month, and payment shall be made not later than the twentieth day of the same month. The second period shall begin on the sixteenth day of the same month and end on the last day of the same month, and payment shall be made not later than the fifth day of the following month. An employer meeting the withholding threshold requirements of this subsection, but only having one (1) pay period per month, may, upon request to and approval by the state tax commission, pay in accordance with paragraph (2) of this subsection.

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

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

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

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

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

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

(3) Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, machine readable form or electronic means, as defined in the Idaho uniform electronic transactions act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, machine readable form or electronic means. Such rules may provide a different due date for such returns, which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration and shall provide a five (5) business day period for an employer to correct errors in the electronic file received by the due date.

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

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

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year, which begins within such calendar year, and the return made by the employer under this subsection shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to

pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

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

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

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2019.

Approved February 11, 2019

CHAPTER 13
(H.B. No. 17)

AN ACT

RELATING TO THE GROCERY TAX CREDIT; AMENDING SECTION 63-3024A, IDAHO CODE, TO REVISE AND UPDATE REFERENCES TO THE TERMINOLOGY USED IN THE INTERNAL REVENUE CODE REGARDING DEPENDENT DEDUCTIONS FOR THE PURPOSE OF THE GROCERY TAX CREDIT AND TO REMOVE OBSOLETE LANGUAGE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3024A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024A. FOOD TAX CREDITS AND REFUNDS. (1) Any resident individual who is required to file and who has filed an Idaho income tax return shall be allowed a credit against taxes due under the Idaho income tax act for each ~~personal exemption for which a deduction is permitted by section 151(b) and (e) the taxpayer, the taxpayer's spouse, and each dependent, as defined in section 152 of the Internal Revenue Code and is, claimed on the taxpayer's Idaho income tax return. The amount of the credit for tax year 2008 shall be as follows:~~

When Idaho taxable income is:	The rate is:
\$1,000 or less	\$50.00
Over \$1,000	\$30.00

~~The credits allowed in this subsection shall be increased by ten dollars (\$10.00) in each tax year after tax year 2008 until such time as each credit equals one hundred dollars (\$100).~~ For tax years 2015 and after, the credit is one hundred dollars (\$100). If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit.

(2) A resident individual who is not required to file an Idaho income tax return and for whom no credit or refund is allowed under any other subsection of this section shall, subject to the limitations of subsections (3), (4), (5), (6), (7) and (8) of this section, be entitled to a refund in the amount provided in subsection (1) of this section.

(3) A resident individual who has reached his sixty-fifth birthday before the end of his taxable year and who has claimed the credit available under subsection (1) of this section, in addition to the amount of credit or refund due under subsection (1) of this section, shall be entitled to twenty dollars (\$20.00), which shall be claimed as a credit against any taxes due under the Idaho income tax act. If taxes due are less than the total credit allowed, the individual shall be paid a refund equal to the balance of the unused credit.

(4) Except as provided in subsection (9) of this section, a credit or refund under this section is only available if the individual for whom a personal exemption is claimed is a resident of the state of Idaho.

(5) In no event shall more than one (1) taxpayer be allowed a credit or refund for the same personal exemption, or under more than one (1) subsection of this section.

(6) In the event that a credit or refund is attributable to any individual for whom assistance under the federal food stamp program was received for any month or part of a month during the taxable year for which the credit or refund is claimed, the credit or refund allowed under this section shall be in proportion to the number of months of the year in which no assistance was received.

(7) In the event that a credit or refund is attributable to any individual who has been incarcerated for any month or part of a month during the taxable year for which the credit or refund is claimed, the credit or refund allowed under this section shall be in proportion to the number of months of the year in which the individual was not incarcerated.

(8) No credit or refund shall be paid that is attributable to an individual residing illegally in the United States.

(9) Any part-year resident entitled to a credit under this section shall receive a proportionate credit reflecting the part of the year in which he was domiciled in this state.

(10) Any refund shall be paid to such individual only upon his making application therefor, at such time and in such manner as may be prescribed by the state tax commission. The state tax commission shall prescribe the method by which the refund is to be made to the taxpayer. The refunds authorized by this section shall be paid from the state refund fund in the same manner as the refunds authorized by section 63-3067, Idaho Code.

(11) An application for any refund that is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

(a) The due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return; or

(b) The fifteenth day of April of the year following the year to which the application relates if the applicant is not required to file a return.

(12) The state tax commission shall provide income tax payers with the irrevocable option of donating credited funds accruing pursuant to this section. Any funds so donated shall be remitted from the refund fund to the co-

operative welfare fund, created pursuant to section 56-401, Idaho Code, and shall be used solely for the purpose of providing low-income Idahoans with assistance in paying home energy costs.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2019.

Approved February 11, 2019

CHAPTER 14
(H.B. No. 19)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029L, IDAHO CODE, TO CLARIFY RESIDENT ELIGIBILITY FOR THE CHILD TAX CREDIT; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3029L. CHILD TAX CREDIT. (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, there shall be allowed to a taxpayer a nonrefundable credit against the tax imposed by this chapter in the amount of two hundred five dollars (\$205) with respect to each qualifying child of the taxpayer. For purposes of this section, the term "qualifying child" has the meaning as defined in section 24(c) of the Internal Revenue Code. In no event shall more than one (1) taxpayer be allowed this credit for the same qualifying child. This credit is available only to Idaho residents. Any part-year resident entitled to a credit under this section shall receive a proportional credit reflecting the part of the year in which the part-year resident was domiciled in Idaho.

(2) In the case of divorced parents or parents who do not live together, if the qualifying child is in the custody of one (1) or both of the child's parents for more than one-half of a calendar year, such child is the qualifying child of the custodial parent for the taxable year beginning during such calendar year. However, the child may be the qualifying child of the noncustodial parent if either of the following requirements are met:

(a) A court of competent jurisdiction has unconditionally awarded, in writing, the noncustodial parent the tax credit authorized under this section and the noncustodial parent attaches a copy of the court order to the noncustodial parent's income tax return for the taxable year; or

(b) The custodial parent signs a written declaration that such custodial parent will not claim the credit of this section with respect to such child for any taxable year beginning in such calendar year and the noncustodial parent attaches such written declaration to the noncustodial parent's income tax return for the taxable year beginning during such calendar year.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2018.

Approved February 12, 2019

CHAPTER 15
(H.B. No. 57)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 274, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Fish and Game for the Fisheries Program \$1,825,100 from the Fish and Game (Other) Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of habitat improvement projects.

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

Approved February 12, 2019

CHAPTER 16
(H.B. No. 1)

AN ACT

RELATING TO WATER; AMENDING CHAPTER 1, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-115, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL SUBORDINATE PERMITS AND LICENSES FOR CERTAIN PROJECTS ISSUED AFTER A SPECIFIED DATE TO THE CAPTURE AND RETENTION OF WATER IN EXISTING ON-STREAM STORAGE RESERVOIRS DURING AND FOLLOWING FLOOD CONTROL OPERATIONS UNTIL THE DATE OF ALLOCATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-115, Idaho Code, and to read as follows:

42-115. STORAGE. To ensure that new or proposed projects to store more than one thousand (1,000) acre feet of surface water do not interfere with the storage of water in existing on-stream storage reservoirs operated for storage and flood control purposes, the director of the department of water resources shall subordinate permits and licenses for projects to store more than one thousand (1,000) acre feet of surface water issued after the effective date of this section to the capture and retention of water in existing on-stream storage reservoirs during and following flood control operations until the date of allocation.

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

Approved February 13, 2019

CHAPTER 17
(S.B. No. 1032)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PUBLIC WORKS PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PUBLIC WORKS PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURCHASING PROGRAM FOR FISCAL YEAR 2019; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE PUBLIC WORKS PROGRAM FOR FISCAL YEAR 2019; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 318, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Administration for the Public Works Program \$158,500 from the Administration and Accounting Services Fund to be expended for personnel costs for the period July 1, 2018, through June 30, 2019, for the purpose of maintenance personnel at the Chinden Campus.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 318, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Administration for the Public Works Program \$181,000 from the Permanent Building Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of project management software annual subscriptions.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 318, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Administration for the Purchasing Program \$87,800 from the Administration and Accounting Services Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of Central Postal Services increased costs.

SECTION 4. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Administration for the Public Works Program in Section 1, Chapter 318, Laws of 2018, from the Administration and Accounting Services Fund is hereby reduced by \$158,500 for operating expenditures for the period July 1, 2018, through June 30, 2019, due to maintenance personnel at the Chinden Campus.

SECTION 5. FTP AUTHORIZATION. In addition to the authorization provided in Section 2, Chapter 318, Laws of 2018, the full-time equivalent position authorization provided to the Department of Administration is hereby increased by one (1.00) for the period July 1, 2018, through June 30, 2019, for the purpose of maintenance personnel at the Chinden Campus.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 14, 2019

CHAPTER 18
(S.B. No. 1031)

AN ACT

RELATING TO APPROPRIATIONS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$26,800 from the General Fund to the Hazardous Substance Emergency Response Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Military Division's Office of Emergency Management Program pursuant to Section 39-7110, Idaho Code.

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

Approved February 14, 2019

CHAPTER 19
(H.B. No. 72)

AN ACT

RELATING TO FINANCIAL MANAGEMENT; REPEALING SECTION 67-1911, IDAHO CODE, RELATING TO THE FINANCIAL MANAGEMENT TECHNICAL DEVELOPMENT COMMITTEE.

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

SECTION 1. That Section 67-1911, Idaho Code, be, and the same is hereby repealed.

Approved February 14, 2019

CHAPTER 20
(H.B. No. 66)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CAPITAL FACILITIES PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 345, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Capital Facilities Program \$330,000 from the State Highway (Dedicated) Fund to be expended for capital outlay for the period July 1, 2018, through June 30, 2019, for the purpose of a new roof at the District 5 headquarters.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 345, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$90,240,000 from the State Highway (Federal) Fund to be expended for capital outlay for the period July 1, 2018, through June 30, 2019, for the purpose of road projects.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 345, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$37,697,800 from the Strategic Initiatives Program (Dedicated) Fund to be expended for capital outlay for the period July 1, 2018, through June 30, 2019, for the purpose of the Strategic Initiatives Program.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 345, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$24,462,500 from the Strategic Initiatives Program (Local) Fund to be expended for trustee and benefit payments for the period July 1, 2018, through June 30, 2019, for the purpose of the Strategic Initiatives Program.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 14, 2019

CHAPTER 21
(H.B. No. 56)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2019; REDUCING THE APPROPRIATION TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 352, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Division of Building Safety \$60,100 from the Miscellaneous Revenue/Logging Fund to be expended for personnel costs for the period July 1, 2018, through June 30, 2019, for the purpose of a fund shift.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Division of Building Safety in Section 1, Chapter 352, Laws of 2018, from the Miscellaneous Revenue/Industrial Safety Fund is hereby reduced by \$60,100 for personnel costs for the period July 1, 2018, through June 30, 2019, for the purpose of a fund shift.

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

Approved February 14, 2019

CHAPTER 22
(H.B. No. 25)

AN ACT

RELATING TO ANNEXATION; AMENDING SECTION 50-222, IDAHO CODE, TO PROVIDE A REQUIREMENT REGARDING ANNEXATION OF CERTAIN AGRICULTURAL LAND AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-222, Idaho Code, be, and the same is hereby amended to read as follows:

50-222. ANNEXATION BY CITIES. (1) Legislative intent. The legislature hereby declares and determines that it is the policy of the state of Idaho that cities of the state should be able to annex lands which are reasonably necessary to assure the orderly development of Idaho's cities in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

(2) General authority. Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. Provided further, that said city council shall not have the power to declare such land, lots or blocks a part of said city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.

(3) Annexation classifications. Annexations shall be classified and processed according to the standards for each respective category set forth herein. The three (3) categories of annexation are:

(a) Category A: Annexations wherein:

(i) All private landowners have consented to annexation. Annexation where all landowners have consented may extend beyond the city area of impact provided that the land is contiguous to the city and that the comprehensive plan includes the area of annexation;

(ii) Any residential enclaved lands of less than one hundred (100) ~~privately-owned~~ privately owned parcels, irrespective of surface area, which are surrounded on all sides by land within a city or which are bounded on all sides by lands within a city and by the boundary of the city's area of impact; or

(iii) The lands are those for which owner approval must be given pursuant to subsection (5) (b) (v) of this section.

(b) Category B: Annexations wherein:

(i) The subject lands contain less than one hundred (100) separate private ownerships and platted lots of record and where not all such landowners have consented to annexation; or

(ii) The subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have consented to annexation prior to the commencement of the annexation process; or

(iii) The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provided such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.

(c) Category C: Annexations wherein the subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have not consented to annexation prior to commencement of the annexation process.

(4) (a) Evidence of consent to annexation. For purposes of this section, and unless excepted in paragraph (b) of this subsection ~~(4)~~, consent to annex shall be valid only when evidenced by written instrument consenting to annexation executed by the owner or the owner's authorized agent. Written consent to annex lands must be recorded in the county recorder's office to be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; provided however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to such city.

(b) Exceptions to the requirement of written consent to annexation. The following exceptions apply to the requirement of written consent to annexation provided for in ~~subsection (4)~~ paragraph (a) of this subsection:

(i) Enclaved lands: In category A annexations, no consent is necessary for enclaved lands meeting the requirements of subsection (3) (a) (ii) of this section;

(ii) Implied consent: In category B and C annexations, valid consent to annex is implied for the area of all lands connected to a water or wastewater collection system operated by the city if the connection was requested in writing by the owner, or the owner's authorized agent, or completed before July 1, 2008.

(5) Annexation procedures. Annexation of lands into a city shall follow the procedures applicable to the category of lands as established by this section. The implementation of any annexation proposal wherein the city council determines that annexation is appropriate shall be concluded with the passage of an ordinance of annexation.

(a) Procedures for category A annexations: Lands lying contiguous or adjacent to any city in the state of Idaho may be annexed by the city if the proposed annexation meets the requirements of category A. Upon determining that a proposed annexation meets such requirements, a city may initiate the planning and zoning procedures set forth in chapter 65, title 67, Idaho Code, to establish the comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.

(b) Procedures for category B annexations: A city may annex lands that would qualify under the requirements of category B annexation if the following requirements are met:

(i) The lands are contiguous or adjacent to the city and lie within the city's area of city impact;

(ii) The land is laid off into lots or blocks containing not more than five (5) acres of land each, whether the same shall have been or shall be laid off, subdivided or platted in accordance with any statute of this state or otherwise, or whenever the owner or proprietor or any person by or with his authority has sold or begun to sell off such contiguous or adjacent lands by metes and bounds in tracts not exceeding five (5) acres, or whenever the land is surrounded by the city. Splits of ownership which occurred prior to January 1, 1975, and which were the result of placement of public utilities, public roads or highways, or railroad lines through the property shall not be considered as evidence of an intent to develop such land and shall not be sufficient evidence that the land has been laid off or subdivided in lots or blocks. A single sale after January 1, 1975, of five (5) acres or less to a family member of the owner for the purpose of constructing a residence shall not constitute a sale within the meaning of this section. For purposes of this section, "family member" means a natural person or the spouse of a natural person who is related to the owner by blood, adoption or marriage within the first degree of consanguinity;

(iii) Preparation and publication of a written annexation plan, appropriate to the scale of the annexation contemplated, which includes, at a minimum, the following elements:

(A) The manner of providing tax-supported municipal services to the lands proposed to be annexed;

(B) The changes in taxation and other costs, using examples, which would result if the subject lands were to be annexed;

(C) The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed;

(D) A brief analysis of the potential effects of annexation upon other units of local government which currently provide tax-supported or fee-supported services to the lands proposed to be annexed; and

(E) The proposed future land use plan and zoning designation or designations, subject to public hearing, for the lands proposed to be annexed;

(iv) Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section 67-6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, the initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included in such annexation proposal not less than twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the proposed annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one (1) page summary of the contents of the city's proposed annexation plan and shall provide information regarding where the annexation plan may be obtained without charge by any property owner whose property would be subject to the annexation proposal.

(v) In addition to the standards set forth elsewhere in this section, annexation of the following lands must meet the following requirements:

(A) Property, owned by a county or any entity within the county, that is used as a fairgrounds area under the provisions of chapter 8, title 31, Idaho Code, or chapter 2, title 22, Idaho Code, must have the consent of a majority of the board of county commissioners of the county in which the property lies; and

(B) Property, owned by a nongovernmental entity, that is used to provide outdoor recreational activities to the public and that has been designated as a planned unit development of fifty (50) acres or more and does not require or utilize any city services must have the express written permission of the nongovernmental entity owner; and

(C) Land, if five (5) acres or greater, actively devoted to agriculture, as defined in section 63-604(1), Idaho Code, regardless of whether it is surrounded or bounded on all sides by lands within a city, must have the express written permission of the owner.

(vi) After considering the written and oral comments of property owners whose land would be annexed and other affected persons, the city council may proceed with the enactment of an ordinance of annexation and zoning. In the course of the consideration of any such ordinance, the city must make express findings, to be set forth in the minutes of the city council meeting at which the annexation is approved, as follows:

(A) The land to be annexed meets the applicable requirements of this section and does not fall within the exceptions or conditional exceptions contained in this section;

(B) The annexation would be consistent with the public purposes addressed in the annexation plan prepared by the city;

(C) The annexation is reasonably necessary for the orderly development of the city;

(vii) Notwithstanding any other provision of this section, railroad right-of-way property may be annexed pursuant to this section only when property within the city adjoins or will adjoin both sides of the right-of-way.

(c) Procedures for category C annexations: A city may annex lands that would qualify under the requirements of category C annexation if the following requirements are met:

(i) Compliance with the procedures governing category B annexations; and

(ii) Evidence of consent to annexation based upon the following procedures:

(A) Following completion of all procedures required for consideration of a category B annexation, but prior to enactment of an annexation ordinance and upon an affirmative action by the city council, the city shall mail notice to all private landowners owning lands within the area to be annexed, exclusive of the owners of lands that are subject to a consent to annex which complies with subsection (4) (a) of this section defining consent. Such notice shall invite property owners to give written consent to the annexation, include a description of how that consent can be made and where it can be filed, and inform the landowners where the entire record of the subject annexation may be examined. Such mailed notice shall also include a legal description of

the lands proposed for annexation and a simple map depicting the location of the subject lands.

(B) Each landowner desiring to consent to the proposed annexation must submit the consent in writing to the city clerk by a date specified in the notice, which date shall not be later than forty-five (45) days after the date of the mailing of such notice.

(C) After the date specified in the notice for receipt of written consent, the city clerk shall compile and present to the city council a report setting forth: (i) the total physical area sought to be annexed, and (ii) the total physical area of the lands, as expressed in acres or square feet, whose owners have newly consented in writing to the annexation, plus the area of all lands subject to a prior consent to annex which complies with subsection (4) (a) of this section defining consent. The clerk shall immediately report the results to the city council.

(D) Upon receiving such report, the city council shall review the results and may thereafter confirm whether consent was received from the owners of a majority of the land. The results of the report shall be reflected in the minutes of the city council. If the report as accepted by the city council confirms that owners of a majority of the land area have consented to annexation, the city council may enact an ordinance of annexation, which thereafter shall be published and become effective according to the terms of the ordinance. If the report confirms that owners of a majority of the land area have not consented to the annexation, the category C annexation shall not be authorized.

(6) The decision of a city council to annex and zone lands as a category B or category C annexation shall be subject to judicial review in accordance with the procedures provided in chapter 52, title 67, Idaho Code, and pursuant to the standards set forth in section 67-5279, Idaho Code. Any such appeal shall be filed by an affected person in the appropriate district court no later than twenty-eight (28) days after the date of publication of the annexation ordinance. All cases in which there may arise a question of the validity of any annexation under this section shall be advanced as a matter of immediate public interest and concern, and shall be heard by the district court at the earliest practicable time.

(7) Annexation of noncontiguous municipal airfield. A city may annex land that is not contiguous to the city and is occupied by a municipally owned or operated airport or landing field. However, a city may not annex any other land adjacent to such noncontiguous facilities which is not otherwise annexable pursuant to this section.

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

Approved February 14, 2019

CHAPTER 23
(H.B. No. 12)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1733B, IDAHO CODE, TO REVISE PROVISIONS REGARDING OPIOID ANTAGONISTS.

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

SECTION 1. That Section 54-1733B, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733B. OPIOID ANTAGONISTS. (1) Notwithstanding any other provision of law, any ~~prescriber or pharmacist~~ health professional licensed or registered under this title, acting in good faith and exercising reasonable care, may prescribe and dispense an opioid antagonist to:

- (a) A person at risk of experiencing an opiate-related overdose;
- (b) A person in a position to assist a person at risk of experiencing an opiate-related overdose;
- (c) A person who, in the course of his official duties or business, may encounter a person experiencing an opiate-related overdose; or
- (d) A person who, in the opinion of the ~~prescriber or pharmacist~~ health professional licensed or registered under this title, has valid reason to be in the possession of an opioid antagonist.

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an opioid antagonist to another person who appears to be experiencing an opiate-related overdose. As soon as possible, the administering person shall contact emergency medical services.

(3) Any person who prescribes, dispenses, or administers an opioid antagonist pursuant to subsection (1) or (2) of this section shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(4) ~~The department of health and welfare in cooperation with the office of drug policy shall create and maintain an online education program for laypersons and the general public on matters pertaining to opiate-related overdoses, including:~~

- ~~(a) How to recognize symptoms or indications of an opiate-related overdose;~~
- ~~(b) How to store, administer and dispose of an opioid antagonist;~~
- ~~(c) Emergency procedures in the event of an opiate-related overdose;~~
- ~~and~~
- ~~(d) Other information deemed pertinent by the department of health and welfare and the office of drug policy.~~

(5) As used in this section, "opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

Approved February 14, 2019

CHAPTER 24
(H.B. No. 11)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE I CONTROLLED SUBSTANCES; AMENDING SECTION 37-2709, IDAHO CODE, TO PROVIDE AN EXCLUSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2713, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE V DRUGS AND SUBSTANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
- (4) Allylprodine;
- (5) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- (6) Alphameprodine;
- (7) Alphamethadol;
- (8) Alpha-methylfentanyl;
- (9) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (10) Benzethidine;
- (11) Betacetylmethadol;
- (12) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (13) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);
- (14) Betameprodine;
- (15) Betamethadol;
- (16) Betaprodine;
- (17) Clonitazene;
- (18) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);
- (19) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
- (20) Dextromoramide;
- (1921) Diampromide;
- (202) Diethylthiambutene;
- (213) Difenoxin;
- (224) Dimenoxadol;
- (235) Dimepheptanol;
- (246) Dimethylthiambutene;
- (257) Dioxaphetyl butyrate;
- (268) Dipipanone;
- (279) Ethylmethylthiambutene;

- (2830) Etonitazene;
- (2931) Etoxadine;
- (32) Fentanyl-related substances. "Fentanyl-related substances" means any substance not otherwise listed and for which no exemption or approval is in effect under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. 355, and that is structurally related to fentanyl by one (1) or more of the following modifications:
- i. Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
 - ii. Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - iii. Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - iv. Replacement of the aniline ring with any aromatic monocycle, whether or not further substituted in or on the aromatic monocycle; and/or
 - v. Replacement of the N-propionyl group by another acyl group;
- (303) Furethidine;
- (314) Hydroxypethidine;
- (35) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide);
- (326) Ketobemidone;
- (337) Levomoramide;
- (348) Levophenacetylmorphan;
- (359) 3-Methylfentanyl;
- (3640) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (3741) Morpheridine;
- (3842) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (43) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- (3944) Noracymethadol;
- (405) Norlevorphanol;
- (416) Normethadone;
- (427) Norpipanone;
- (48) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl) acetamide);
- (49) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide);
- (50) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);
- (4351) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (52) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);
- (4453) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (4554) Phenadoxone;
- (4655) Phenampromide;
- (4756) Phenomorphan;
- (4857) Phenoperidine;
- (4958) Piritramide;
- (509) Proheptazine;
- (5160) Properidine;
- (5261) Propiram;
- (5362) Racemoramide;
- (5463) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (5564) Tilidine;

(5665) Trimeperidine;
(5766) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide);
(67) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide).

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) Dimethoxyphenethylamine, or any compound not specifically excepted or listed in another schedule that can be formed from dimethoxyphenethylamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as DOB, DOC, 2C-B, 25B-NBOMe;
- (2) Methoxyamphetamine or any compound not specifically excepted or listed in another schedule that can be formed from methoxyamphetamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as PMA and DOM;
- (3) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (4) 5-methoxy-N,N-diisopropyltryptamine;
- (5) Amphetamine or methamphetamine with a halogen substitution on the benzyl ring, including compounds such as fluorinated amphetamine and fluorinated methamphetamine;
- (6) 3,4-methylenedioxy amphetamine;
- (7) 3,4-methylenedioxymethamphetamine (MDMA);

- (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);
- (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA);
- (10) 3,4,5-trimethoxy amphetamine;
- (11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-(dimethylamino)ethyl]indole and 5-MeO-DMT);
- (12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminobutyl) indole);
- (13) Alpha-methyltryptamine;
- (14) Bufotenine;
- (15) Diethyltryptamine (DET);
- (16) Dimethyltryptamine (DMT);
- (17) Ibogaine;
- (18) Lysergic acid diethylamide;
- (19) Marihuana;
- (20) Mescaline;
- (21) Parahexyl;
- (22) Peyote;
- (23) N-ethyl-3-piperidyl benzilate;
- (24) N-methyl-3-piperidyl benzilate;
- (25) Psilocybin;
- (26) Psilocyn;
- (27) Tetrahydrocannabinols or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure such as the following:

- i. Tetrahydrocannabinols:

- a. Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in either a soft gelatin capsule or in an oral solution in a drug product approved by the U.S. Food and Drug Administration.
- b. Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.
- c. $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)
- d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol], also known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric isomers (HU211 or dexanabinol).

- ii. The following synthetic drugs:

- a. Any compound structurally derived from (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobutan-2-yl carboxamide by substitution at the nitrogen atoms of the indole ring or carboxamide to any extent, whether or not further substituted in or on the indole ring to any extent, whether or not substituted to any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the

ring may include, but is not limited to, heteroatoms such as nitrogen, sulfur and oxygen).

b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring to any extent, whether or not substituted in the cyclohexyl ring to any extent.

f. Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

g. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-
o[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone
(WIN-55,212-2).

h. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-243).

i. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-
5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate (CP 50,5561).

(28) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) - pyrrolidine, PCPy, PHP;

(30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TCPy, TCP;

(31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(32) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Gamma hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on

the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);
- (2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);
- (3) Substituted cathinones. Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - i. By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents;
 - ii. By substitution at the 3-position with an acyclic alkyl substituent;
 - iii. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.
- (4) Fenethylamine;
- (5) Methcathinone (some other names: 2-(methyl-amino)-propionophenone, alpha-(methylamino)-propionophenone, N-methylcathinone, AL-464, AL-422, AL-463 and UR1423);
- (6) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine];
- (7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);
- (8) N-ethylamphetamine;
- (9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-benzeneethanamine).

SECTION 2. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

37-2709. SCHEDULE III. (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, (whether optical or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed as excepted compounds under 21 CFR 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:

- i. Amobarbital;
 - ii. Secobarbital;
 - iii. Pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule.
 - (2) Any suppository dosage form containing:
 - i. Amobarbital;
 - ii. Secobarbital;
 - iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
 - (3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof, including, but not limited to:
 - i. Aprobarbital;
 - ii. Butabarbital (secbutabarbital);
 - iii. Butalbital, excluding drug products exempted by the federal drug enforcement administration (DEA);
 - iv. Butobarbital (butethal);
 - v. Talbutal;
 - vi. Thiamylal;
 - vii. Thiopental;
 - viii. Vinbarbital.
 - (4) Chlorhexadol;
 - (5) Embutramide;
 - (6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;
 - (7) Ketamine, its salts, isomers, and salts of isomers-7285. (Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone).
 - (8) Lysergic acid;
 - (9) Lysergic acid amide;
 - (10) Methyprylon;
 - (11) Perampanel, and its salts, isomers and salts of isomers;
 - (12) Sulfondiethylmethane;
 - (13) Sulfonethylmethane;
 - (14) Sulfonmethane;
 - (15) Tiletamine and zolazepam or any salt thereof.
- (d) Nalorphine.
- (e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule:
- (1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
 - (i) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (ii) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (iii) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (iv) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(v) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(i) Buprenorphine.

(ii) [Reserved].

(f) Anabolic steroids and human growth hormones. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins and corticosteroids) that promotes muscle growth including any salt, ester or isomer of a drug or substance listed in this paragraph subsection, if that salt, ester or isomer promotes muscle growth.

- (1) 13beta-ethyl-17beta-hydroxygon-4-en-3-one;
- (2) 17alpha-methyl-3alpha, 17beta-dihydroxy-5alpha-androstane;
- (3) 17alpha-methyl-3beta, 17beta-dihydroxy-5alpha-androstane;
- (4) 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;
- (5) 17alpha-methyl-4-hydroxynandrolone;
- (6) 17alpha-methyl-delta1-dihydrotestosterone;
- (7) 19-nor-4-androstenediol;
- (8) 19-nor-4-androstenedione;
- (9) 19-nor-4,9(10)-androstadienedione;
- (10) 19-nor-5-androstenediol;
- (11) 19-nor-5-androstenedione;
- (12) 1-androstenediol;
- (13) 1-androstenedione;
- (14) 3alpha,17beta-dihydroxy-5alpha-androstane;
- (15) 3beta,17beta-dihydroxy-5alpha-androstane;
- (16) 4-androstenediol;
- (17) 4-androstenedione;
- (18) 4-hydroxy-19-nortestosterone;
- (19) 4-hydroxytestosterone;
- (20) 5-androstenediol;
- (21) 5-androstenedione;
- (22) Androstenedione;
- (23) Bolasterone;
- (24) Boldenone;
- (25) Boldione;
- (26) Calusterone;
- (27) Chlorotestosterone (4-chlorotestosterone);
- (28) Clostebol;
- (29) Dehydrochlormethyltestosterone;
- (30) Delta1-dihydrotestosterone;
- (31) Desoxymethyltestosterone;
- (32) Dihydrotestosterone (4-dihydrotestosterone);
- (33) Drostanolone;
- (34) Ethylestrenol;
- (35) Fluoxymesterone;
- (36) Formebolone;
- (37) Furazabol;
- (38) Human growth hormones;
- (39) Mestanolone;
- (40) Mesterolone;
- (41) Methandienone;
- (42) Methandranone;
- (43) Methandriol;

- (44) Methandrostenolone;
- (45) Methasterone (2a, 17a-dimethyl-5a-androstan-17 β -ol-3-one);
- (46) Methenolone;
- (47) Methyldienolone;
- (48) Methyltestosterone;
- (49) Methyltrienolone;
- (50) Mibolerone;
- (51) Nandrolone;
- (52) Norbolethone;
- (53) Norclostebol;
- (54) Norethandrolone;
- (55) Normethandrolone;
- (56) Oxandrolone;
- (57) Oxymesterone;
- (58) Oxymetholone;
- (59) Prostanazol (17 β -hydroxy-5a-androstano[3,2-c]pyrazole);
- (60) Stanolone;
- (61) Stanozolol;
- (62) Stenbolone;
- (63) Testolactone;
- (64) Testosterone;
- (65) Testosterone cypionate;
- (66) Testosterone enanthate;
- (67) Testosterone propionate;
- (68) Tetrahydrogestrinone;
- (69) Trenbolone.

Anabolic steroids that are expressly intended for administration through implants or injection to cattle or other nonhuman species, and that are approved by the federal Food and Drug Administration for such use, shall not be classified as controlled substances under this act and shall not be governed by its provisions.

In addition to the penalties prescribed in article IV of the uniform controlled substances act, any person shall be guilty of a felony who prescribes, dispenses, supplies, sells, delivers, manufactures or possesses with the intent to prescribe, dispense, supply, sell, deliver or manufacture anabolic steroids or any other human growth hormone for purposes of enhancing performance in an exercise, sport or game or hormonal manipulation intended to increase muscle mass, strength or weight without a medical necessity as determined by a physician.

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in the federal Food and Drug Administration approved product -- 7369. (Some other names for dronabinol: (6aR-trans) -6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol).

(h) The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (b) or (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 3. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts);

(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

(3) Lacosamide;

(4) Pregabalin;

(5) Pyrovalerone.

(e) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. food and drug administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.

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

Approved February 14, 2019

CHAPTER 25
(H.B. No. 10)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1717, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULES; AMENDING SECTION 54-1720, IDAHO CODE, TO REVISE PROVISIONS REGARDING OTHER DUTIES, POWERS, AND AUTHORITY OF THE BOARD OF PHARMACY; AMENDING SECTION 54-1721, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE UNLAWFUL PRACTICE OF PHARMACY; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1723B, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING MULTISTATE PRACTICE OF PHARMACY; AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE FOR CERTAIN EMERGENCY PROCEEDINGS; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE PROVISIONS REGARDING REGISTRATION AND LICENSURE OF FACILITIES; AMENDING SECTION 54-1730, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPLICATIONS FOR CERTIFICATES OF REGISTRATION; AMENDING SECTION 54-1731, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN NOTIFICATIONS; AMENDING SECTION 54-1732, IDAHO CODE, TO REVISE PROVISIONS REGARDING VIOLATIONS AND PENALTIES; AMENDING SECTION 54-1733, IDAHO CODE, TO REVISE PROVISIONS REGARDING VALIDITY OF PRESCRIPTION DRUG ORDERS; AMENDING SECTION 54-1733A, IDAHO CODE, TO REVISE PROVISIONS REGARDING TRANSMISSION OF PRESCRIPTION DRUG ORDERS; REPEALING SECTION 54-1734, IDAHO CODE, RELATING TO POSSESSION OF LEGEND DRUGS; REPEALING SECTION 54-1735, IDAHO CODE, RELATING TO PATIENT MEDICATION RECORDS; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1762A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING DRUG DONATION FOR ANIMALS; REPEALING SECTION 54-1763, IDAHO CODE, RELATING TO BOARD DUTIES AND POWERS; AND AMENDING SECTION 54-1770, IDAHO CODE, TO PROVIDE THAT THIS SECTION SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT ON AND AFTER JULY 1, 2021.

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

SECTION 1. That Section 54-1717, Idaho Code, be, and the same is hereby amended to read as follows:

54-1717. ~~RULES AND REGULATIONS.~~ The board of pharmacy shall make, adopt, amend, and repeal such rules and regulations as may be deemed necessary by the board, from time to time, for the proper administration and enforcement of this act ~~chapter~~. Such rules and regulations shall be promulgated in accordance with the procedures specified in ~~Chapter 52, Title 67,~~ Idaho Code, the administrative procedures act.

SECTION 2. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and

discharge of the duties of any officer or employee receiving and disbursing funds.

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

(4) (a) The board shall determine by rule the fees to be collected for the issuance and renewal of licenses and registrations.

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

(5) In addition to its annual appropriations, the board may solicit and receive, from parties other than the state, grants, moneys, donations and gifts of tangible and intangible property for any purpose consistent with this act, which may be specified as a condition of any grants, donations or gifts. Such moneys may be solicited or received provided:

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

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

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

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

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

(6) The board shall assign to each drug outlet under its jurisdiction a uniform state number.

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

~~(8) (a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.~~

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

~~(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.~~

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

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

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

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

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

(110) The board may sponsor, participate in or conduct education, research or public service programs or initiatives to carry out the purposes of this act chapter.

SECTION 3. That Section 54-1721, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) ~~Physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state and their agents or employees may deliver and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this state;~~

(b) Nonresident pharmacists who are actively licensed in their state of residence may practice pharmacy into Idaho if employed by or affiliated with and practicing for an Idaho-registered nonresident drug outlet. Only the person-in-charge PIC of a registered nonresident facility must be licensed or registered to practice into Idaho; and

(c) Multistate licensees permitted to engage in the multistate practice of pharmacy in or into Idaho pursuant to section 54-1723B, Idaho Code;

(d) A veterinary drug outlet, as defined in section 54-1705, Idaho Code, does not need to register with the board if the outlet does not dispense for outpatient use any controlled substances listed in chapter 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuromuscular paralyzing drugs or general anesthesia drugs;

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

~~(a) Prenatal vitamins;~~

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

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

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

(f) Researchers may possess legend drugs for use in their usual and lawful research projects.

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

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

SECTION 4. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1723B, Idaho Code, and to read as follows:

54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any provision of law to the contrary:

(1) As used in this section:

(a) "License" means a license, registration, or other credential for the practice of pharmacy issued by the pharmacy licensing agency of a state.

(b) "Multistate licensee" means a multistate pharmacist, multistate pharmacist intern, or multistate technician.

(c) "Multistate pharmacist" means a nonresident pharmacist, licensed by a party state, who is not otherwise licensed by the board.

(d) "Multistate pharmacist intern" means a nonresident pharmacist intern, registered by a party state, who is not otherwise registered by the board.

(e) "Multistate practice of pharmacy" means the practice of pharmacy in or into Idaho, for a patient located in Idaho, by a multistate licensee, pursuant to the requirements of this section and the terms of a mutual recognition agreement.

(f) "Multistate technician" means a nonresident certified technician, licensed by a party state, who is not otherwise registered by the board.

(g) "Mutual recognition agreement" means a written agreement entered into between the board and a party state allowing for the multistate practice of pharmacy, subject to the requirements of this section and any other reasonable and supplemental contract terms negotiated by the board and the party state.

(h) "Party state" means any pharmacy licensing agency of a state that has entered a mutual recognition agreement with the board.

(i) "Primary state of residence" means the multistate licensee's declared primary state of residence, as evidenced by a valid state or federal identification card with a home address or another form of identification as accepted by the board.

(j) "State" means a state, a territory or possession of the United States, or the District of Columbia.

(2) The board may enter into mutual recognition agreements with one (1) or more party states provided that each party state:

(a) Has substantially similar requirements for pharmacist licensure, as required in section 54-1722, Idaho Code, or pharmacist intern and certified technician registration, as required by board rule, or both;

(b) Requires a fingerprint-based criminal history check prior to licensure that is substantially similar to the requirement in section 54-1718, Idaho Code; and

(c) Grants the same multistate practice privileges to Idaho pharmacists, registered pharmacist interns, or certified technicians as Idaho grants to the party state's pharmacists, registered pharmacist interns, or certified technicians under like circumstances and conditions.

(3) A pharmacist license, pharmacist intern registration, or certified technician license issued by a party state will be recognized by the board as permitting the multistate practice of pharmacy in or into Idaho without a license or registration issued by the board provided the following conditions are met:

(a) The party state is the primary state of residence for the multistate licensee;

(b) The multistate licensee holds an active license issued by a party state that is not currently suspended, revoked, canceled, or otherwise restricted or conditioned in any manner; and

(c) The requirements specified in paragraph (a) or (b) of this subsection must be met at all times by any multistate licensee engaged in the multistate practice of pharmacy in or into Idaho.

(i) If such a multistate licensee no longer meets the requirements in paragraph (a) of this subsection, the multistate licensee must apply for licensure in the new primary state of residence prior to relocating to the new primary state of residence. If the pharmacist, pharmacist intern, or technician's new primary state of residence is either Idaho or another party state, the pharmacist, pharmacist intern, or technician may continue to practice until a new license is issued in the new primary state of residence.

(ii) If a multistate licensee no longer meets the requirements in paragraph (b) of this subsection, the multistate licensee must immediately cease engaging in the multistate practice of pharmacy in or into Idaho, unless the multistate licensee obtains a license or registration issued by the board.

(4) A multistate licensee engaged in the multistate practice of pharmacy in or into Idaho must comply with all laws governing the practice of pharmacy in the state of Idaho.

(5) If the board finds grounds for discipline exist, as set forth in section 54-1726 or 37-2718, Idaho Code, the board may impose upon the multistate practice privileges of a multistate licensee any of the penalties set forth in section 54-1728 or 37-2718, Idaho Code. The board's imposition of any penalties shall be limited to the multistate practice privileges of a multistate licensee. Only the party state shall have the power to revoke, suspend, or otherwise discipline a license issued by the party state.

(6) The board shall promptly notify a party state of any board action taken against the multistate practice privileges of a multistate licensee licensed by the party state. The party state shall give the same priority and effect to reported conduct received from the board as it would if such conduct had occurred within the party state.

SECTION 5. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Suspension of the offender's license or registration for a term to be determined by the board;

(b) Revocation of the offender's license or registration;

(c) Restriction of the offender's license or registration to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;

(d) Refusal to renew the offender's license or registration;

(e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;

(f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000) for each occurrence providing a basis for discipline.

(2) Whenever it appears that grounds for discipline exist under this chapter and the board finds that there is an immediate danger to the public health, safety, or welfare, the board is authorized to commence emergency proceedings to suspend, revoke, or restrict the license or registration. Such proceedings shall be promptly instituted and processed. Any person whose license or registration has been disciplined pursuant to this sub-

section can contest the emergency proceedings and appeal under the applicable provisions of chapter 52, title 67, Idaho Code.

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

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

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

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

(67) The assessment of costs and fees incurred in the investigation and prosecution or defense of a person holding a license or registration, seeking a license or registration, or renewing a license or registration under this chapter shall be governed by the provisions of section 12-117(5), Idaho Code.

(78) Any person whose license to practice pharmacy in this state has been suspended, revoked or restricted pursuant to this chapter, or any drug outlet whose certificate of registration has been suspended, revoked or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

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

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

SECTION 6. That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or device outlets doing business in or into Idaho shall:

(a) If a nonresident, be licensed or registered and in good standing in the applicant's state of residence and, if a pharmacy, have a PIC who is registered by the board;

(b) Submit a written application in the form prescribed by the board; and

(c) Pay the fee or fees specified by the board for the issuance of the registration or license; and

~~(d) Have a PIC who is licensed or registered by the board, except manufacturers, wholesalers and other drug outlets in accordance with board rule.~~

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

- (a) Retail pharmacy;
- (b) Institutional facility;
- (c) Manufacturer;
- (d) Wholesaler;
- (e) Prescriber drug outlet;
- (f) Central drug outlet;
- (g) Mail service pharmacy;
- (h) Limited service outlet.

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

(4) It shall be lawful for any outlet or facility to sell and distribute nonprescription drugs. Outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule will be adopted by the board under this chapter that requires the sale of nonprescription drugs by a pharmacist or under the supervision of a pharmacist or otherwise applies to or interferes with the sale and distribution of such medicines.

(5) If the regulatory board or licensing authority of the state in which a nonresident outlet is located fails or refuses to conduct an inspection or fails to obtain records or reports required by the board, upon reasonable notice to the nonresident outlet, the board may conduct an inspection. Nonresident outlets shall also pay the actual costs of the out-of-state inspection of the outlet, including the transportation, lodging and related expenses of the board's inspector.

(6) A successful applicant for registration under the provisions of this section shall be subject to the disciplinary provisions of section 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code, and the rules of the board.

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

(8) Renewal shall be required annually and submitted to the board no later than December 31. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration or licensure.

SECTION 7. That Section 54-1730, Idaho Code, be, and the same is hereby amended to read as follows:

54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall specify by rule the registration procedures to be followed including, but not limited to, specification of forms for use in applying for such certificates of registration and times, places and fees for filing such application.

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

- (a) Ownership; and
- (b) Location;

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

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

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

SECTION 8. That Section 54-1731, Idaho Code, be, and the same is hereby amended to read as follows:

54-1731. NOTIFICATIONS. ~~(1)~~ All registered drug outlets shall report to the board of pharmacy the occurrence of any of the following changes:

(a~~1~~) Permanent closing;

(b~~2~~) Change of ownership, management, or location ~~or pharmacist in charge;~~

(3) Disasters, accidents, and emergencies that affect the safe and continued operation of a drug outlet; and

(e~~4~~) Any and all other matters and occurrences as the board may require by rules and regulations.

~~(2) Disasters, accidents and emergencies which may affect the strength, purity or labeling of drugs, medications, devices or other materials used in the diagnosis or the treatment of injury, illness and disease shall be immediately reported to the board.~~

SECTION 9. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728 (~~78~~), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful:

(a) The sale, delivery or administration of any prescription drug or legend drug, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(ii) In the case of a legend drug dispensed by to a pharmacist or prescriber person, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug, except as designated on the prescription or drug order or by the authorization of the practitioner, or in accordance with board rule. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The wholesale distribution of drugs or devices by a pharmacy except for:

(i) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets ;

(ii) The sale of minimal quantities of prescription drugs to practitioners for office use ;

(iii) The sale of a prescription drug for emergency medical reasons, but never to a wholesale distributor ;

(iv) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees or a colicensed product, but never to a wholesale distributor; or

(v) Other exemptions as permitted by federal law.

(e) The failure to keep records as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(f) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(g) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a physician practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

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

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

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

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

(vii) Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

Every violation of paragraph (g) (i) through (vi) of this subsection shall be a misdemeanor, and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating paragraph (g) (vii) of this subsection is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

~~(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.~~

~~(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.~~

SECTION 10. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription drug order for a legend drug is valid only if it is issued by a prescriber for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses, if applicable, and identify underlying conditions and/or contraindications to the treatment.

(2) A prescriber who is otherwise authorized to perform any of the activities listed in this section may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:

- (a) Writing initial admission orders for a newly hospitalized patient;
- (b) Writing a prescription drug order for a patient of another prescriber for whom the prescriber is taking call;
- (c) Writing a prescription drug order for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;
- (d) Writing a prescription drug order for a medication on a short-term basis for a new patient prior to the patient's first appointment;
- (e) Writing a prescription for an opioid antagonist pursuant to section 54-1733B, Idaho Code;
- (f) In emergency situations where the life or health of the patient is in imminent danger;
- (g) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- (h) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code, or an authorized entity pursuant to section 54-1733C, Idaho Code; and
- (i) ~~If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention guidelines; and~~
- (j) If a prescriber makes a diagnosis of an infectious disease in a patient, prescribe or dispense antimicrobials to an individual who has been exposed to the infectious person in accordance with clinical guidelines for chemoprophylaxis.

(3) Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose.

(4) A prescription drug order shall be issued only by a prescriber including a prescriber who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to prescribe legend drugs in the course of his professional practice as long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.

(5) The following acts shall be unlawful:

- (a) To knowingly issue an invalid prescription drug order for a legend drug;
- (b) To knowingly dispense a legend drug pursuant to an invalid prescription drug order; or
- (c) To prescribe drugs to individuals without a prescriber-patient relationship, unless excepted in this section.

Such acts shall constitute unprofessional conduct and the prescriber or dispenser shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber or dispenser is licensed, certified or registered.

SECTION 11. That Section 54-1733A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. ~~(1)~~ A valid prescription drug order may be transmitted to a licensed pharmacy in accordance with federal law by the following means:

~~(a1)~~ By delivery of the original signed written prescription drug order or a digital image of the order ~~in accordance with rules adopted by the board;~~
or

~~(b2)~~ Electronically by the By a prescriber, or prescriber's agent, or representative of a state-licensed or federally certified provider community:

(a) Electronically in compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code, or

~~(c) Electronically by a licensed practical or professional nurse in an institutional facility for a patient of that facility via a secure, interoperable information technology system that exchanges data accurately, effectively and in compliance with applicable laws;~~

~~(db) Verbally by the prescriber, prescriber's agent, or a licensed practical or professional nurse for a patient of an institutional facility or for a hospice patient; and; or~~

~~(ec) Via facsimile by a prescriber, prescriber's agent, institutional facility or hospice agent, provided that if the order was initially received verbally, the transmitted document shall include the name of the prescriber, the name of the licensed practical or professional nurse who received and transcribed the order and the name of the person who faxed the order.~~

~~(2) In the event that there are no refills remaining on an existing prescription drug order and the pharmacist requests a new prescription drug order from the prescriber, the prescriber's agent, after obtaining prescriber authorization, may sign and return the request via facsimile as long as:~~

~~(a) The request is generated from the pharmacy;~~

~~(b) The request is for medication that the patient is currently taking;~~

~~(c) There are no changes to the type of drug, its strength or directions for the continuation of therapy;~~

~~(d) The prescriber's agent's transmission is received via facsimile from the prescriber's office; and~~

~~(e) The request, which is subsequently transmitted back to the requesting pharmacy by the prescriber's agent, contains all components of a valid prescription drug order.~~

SECTION 12. That Section 54-1734, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 54-1735, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1762A, Idaho Code, and to read as follows:

54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other provision of law:

(1) An owner or a legal caretaker of an animal may donate a drug that is dispensed for the animal, but will not be used by that animal, to a licensed veterinarian of a veterinary medical facility, as that term is defined in section 54-2103, Idaho Code, if the veterinarian or facility chooses to accept the drug.

(2) A licensed veterinarian or a veterinary medical facility may accept and reissue drugs donated pursuant to this section and from qualified donors listed in section 54-1762(4), Idaho Code, if:

- (a) The drug is not expired;
- (b) There is no reason to believe the drug has been adulterated;
- (c) The drug is not a controlled substance;
- (d) The drug is not a compounded drug; and
- (e) If a liquid, the drug is packaged in a single dose in an ampule or vial.

(3) A licensed veterinarian or a veterinary medical facility may not resell the donated drug.

(4) A licensed veterinarian or a veterinary medical facility may, however, reissue the donated drug, without charge, for proper administration to an animal by:

- (a) Another client of the veterinarian or facility who appears to be financially unable to pay for the drug;
- (b) A nonprofit animal shelter; or
- (c) A pound, as that term is defined in section 25-3502, Idaho Code.

SECTION 15. That Section 54-1763, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Section 54-1770, Idaho Code, be, and the same is hereby amended to read as follows:

54-1770. NOTIFICATION OF DRUG PRODUCT SELECTION FOR EPILEPSY AND SEIZURE DRUGS. The provisions of this section shall be null, void, and of no force and effect on and after July 1, 2021.

(1) In this section:

(a) "Anti-epileptic drug" means:

- (i) A drug used for the treatment of epilepsy; or
- (ii) A drug used to treat or prevent seizures.

(b) "Drug product selection" means the selection of a therapeutically equivalent drug, including a generic version for the prescribed brand, a branded version for the prescribed generic, or a generic version by one (1) manufacturer for a generic version by a different manufacturer.

(c) "Epilepsy" means a neurological condition characterized by recurrent seizures.

(d) "Seizure" means an acute clinical change secondary to a brief disturbance in the electrical activity of the brain.

(2) When a prescriber has specified that a drug is prescribed for the treatment of epilepsy or seizures, pharmacy personnel who perform drug product selections shall:

(a) Notify the prescriber of such drug product selection via facsimile, telephone message or any other appropriate means to the prescriber's place of business; and

(b) Provide the patient or the patient's representative with notification of the selection.

(3) Nothing in this section shall delay the dispensing of a valid prescription for an anti-epileptic drug.

Approved February 14, 2019

CHAPTER 26
(H.B. No. 9)

AN ACT

RELATING TO PHYSICIANS AND PHYSICIAN ASSISTANTS; AMENDING THE HEADING FOR CHAPTER 18, TITLE 54, IDAHO CODE; AMENDING SECTION 54-1802, IDAHO CODE, TO PROVIDE FOR PHYSICIAN ASSISTANTS; AMENDING SECTION 54-1803, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1804, IDAHO CODE, TO PROVIDE EXCEPTIONS TO UNLICENSED PRACTICE, TO PROVIDE FOR PHYSICIAN ASSISTANTS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1805, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COMPOSITION OF THE STATE BOARD OF MEDICINE AND TO PROVIDE FOR PHYSICIAN ASSISTANT MEMBERSHIP; AMENDING SECTION 54-1806, IDAHO CODE, TO REVISE PROVISIONS REGARDING COMPLAINT AND INVESTIGATION OF LICENSEES, TO PROVIDE FOR PHYSICIAN ASSISTANTS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1806A, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COMMITTEE ON PROFESSIONAL DISCIPLINE AND TO PROVIDE FOR PHYSICIAN ASSISTANTS; AMENDING SECTION 54-1807, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO REVISE PROCEDURES REGARDING REGISTRATION FEE RENEWAL; AMENDING SECTION 54-1807A, IDAHO CODE, TO REVISE PROVISIONS REGARDING PHYSICIAN ASSISTANT SUPERVISION, LICENSING FEE RENEWALS, AND THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE; AMENDING SECTION 54-1808, IDAHO CODE, TO REVISE PROCEDURES REGARDING ISSUANCE OF MEDICAL LICENSURE AND TO PROVIDE FOR PHYSICIAN ASSISTANTS; AMENDING SECTION 54-1809, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE STATE BOARD OF MEDICINE FUND; AMENDING SECTION 54-1810, IDAHO CODE, TO REVISE PROCEDURES REGARDING PHYSICIAN LICENSURE BY WRITTEN EXAMINATION; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1810A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING PHYSICIAN ASSISTANT LICENSURE; AMENDING SECTION 54-1811, IDAHO CODE, TO REVISE PROVISIONS REGARDING PHYSICIAN LICENSURE BY ENDORSEMENT; AMENDING SECTION 54-1813, IDAHO CODE, TO REVISE PROVISIONS REGARDING TEMPORARY LICENSES AND REGISTRATION; AMENDING SECTION 54-1814, IDAHO CODE, TO REVISE PROVISIONS REGARDING MEDICAL DISCIPLINE; REPEALING SECTION 54-1817, IDAHO CODE, RELATING TO POST MORTEM EXAMINATIONS; AMENDING SECTION 54-1818, IDAHO CODE, TO PROVIDE FOR PHYSICIAN ASSISTANTS; REPEALING SECTION 54-1819, IDAHO CODE, RELATING TO DETERMINATION OF DEATH; AMENDING SECTION 54-1831, IDAHO CODE, TO REVISE A TITLE; AMENDING SECTION 54-1832, IDAHO CODE, TO REVISE PROVISIONS REGARDING GROUNDS FOR RESTRICTION, SUSPENSION, OR REVOCATION OF LICENSES; AMENDING SECTION 54-1833, IDAHO CODE, TO PROVIDE FOR PHYSICIAN ASSISTANTS AND TO SPECIFY CERTAIN REQUIREMENTS REGARDING PHYSICIAN ASSISTANT LICENSURE; REPEALING SECTION 54-1834, IDAHO CODE, RELATING TO EXAMINATION BY COMMITTEE; REPEALING SECTION 54-1835, IDAHO CODE, RELATING TO VOLUNTARY RESTRICTION OF LICENSURE; REPEALING SECTION 54-1836, IDAHO CODE, RELATING TO COMMITTEE REPORTS AND RECOMMENDATIONS; AMENDING SECTION 54-1837, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING PROCEEDINGS AGAINST PHYSICIANS AND PHYSICIAN ASSISTANTS; AMENDING SECTION 54-1838, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING APPEAL AND REINSTATEMENT OF LICENSES; AMENDING SECTION 54-1839, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-1840, IDAHO CODE, RELATING TO PROTECTED ACTION AND COMMUNICATION; AMENDING SECTION 54-1841, IDAHO CODE, TO REVISE PROVISIONS REGARDING VOLUNTEER LICENSES; AND AMENDING SECTION 56-1012, IDAHO CODE, TO REMOVE AN OBSOLETE REFERENCE.

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

SECTION 1. That the Heading for Chapter 18, Title 54, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 18
PHYSICIANS AND SURGEONS PHYSICIAN ASSISTANTS

SECTION 2. That Section 54-1802, Idaho Code, be, and the same is hereby amended to read as follows:

54-1802. PURPOSE. Recognizing that the practice of medicine is a privilege granted by the state of Idaho and is not a natural right of individuals, the purpose of this chapter is to assure the public health, safety and welfare in the state by the licensure and regulation of physicians and physician assistants, and the exclusion of unlicensed persons from the practice of medicine.

SECTION 3. That Section 54-1803, Idaho Code, be, and the same is hereby amended to read as follows:

54-1803. DEFINITIONS. As used in this chapter:

- (1) The "~~p~~Practice of medicine" means:
 - (a) ~~To investigate, diagnose, treat, correct or prescribe~~ The investigation, diagnosis, treatment, correction, or prevention of or prescription for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality that involves the application of
 - ~~(b) To apply principles or techniques of medical science in the prevention of any of the conditions listed in paragraph (a) of this subsection; or~~
 - (cb) ~~To offer, undertake, attempt to do or hold~~ Offering, undertaking, or holding oneself out as able to do any of the acts described in paragraphs (a) and (b) of this subsection.
- (2) ~~The word "b~~Board" means the state board of medicine.
- (3) ~~The term "p~~Physician" means any person who holds a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine, provided further, that others authorized by law to practice any of the healing arts shall not be considered physicians for the purposes of this chapter.
- (4) ~~"Alternate supervising physician" means a physician who is registered with the board as set forth in board rule and who is responsible for supervising a physician assistant or graduate physician assistant in the temporary absence of the supervising physician.~~
- ~~(5)~~ "Supervising physician" and "alternate supervising physician" means a physician who is registered with the board as set forth in board rule and who is responsible for the direction and supervision of the activities of and patient services provided by a physician assistant or graduate physician assistant.
- ~~(6)~~ A "l~~License to practice medicine and surgery~~" means a license issued by the board to a person who has graduated from an acceptable school of medicine and who has fulfilled the licensing requirements of this chapter.
- ~~(7)~~ A "l~~License to practice osteopathic medicine and surgery~~" means a license issued by the board to a person who either graduated from an acceptable osteopathic school of medicine subsequent to January 1, 1963, or who has been licensed by endorsement of a license to practice osteopathic medicine issued by another state where a composite examining board exists and where physicians licensed to practice medicine and surgery and osteopathic physicians take the same examination and hold equal licenses, and who has fulfilled the licensing requirements of this chapter.

~~(8) A "license to practice osteopathic medicine" means a license issued by the state board of medicine to a person who graduated from an acceptable osteopathic school of medicine and who prior to January 1, 1963, has fulfilled the licensing requirements of this chapter.~~

~~(9) The word "person," the word "he" and the word "his" mean a natural person.~~

(107) An "acceptable school of medicine" means any school of medicine or school of osteopathic medicine that meets the standards or requirements of a national medical school accrediting organization acceptable to the board.

~~(11) The word "extern" means a bona fide student enrolled in an acceptable school of medicine who has not received his degree.~~

(128) The word "intern" or "resident" means any person who has completed a course of study at an acceptable school of medicine and who is enrolled in a postgraduate medical training program.

(139) The term "physician assistant" means any person who is a graduate of an acceptable physician assistant training program and who is qualified by specialized education, training, experience and personal character and who has been licensed by the board to render patient services under the direction of a supervising and alternate supervising physician. ~~Nothing in this chapter shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as pharmacists under chapter 17, title 54, Idaho Code, as dentists or dental hygienists under chapter 9, title 54, Idaho Code, or as optometrists under chapter 15, title 54, Idaho Code.~~

(1410) "Graduate physician assistant" means a person who is a graduate of an approved program for the education and training of physician assistants and who meets all of the requirements in this chapter for licensure, but who:

- (a) Has not yet taken and passed the certification examination and who has been authorized by the board to render patient services under the direction of a supervising physician for a period of six (6) months; or
- (b) Has passed the certification examination but who has not yet obtained a college baccalaureate degree and who has been authorized by the board to render patient services under the direction of a supervising physician for a period of not more than five (5) years.

SECTION 4. That Section 54-1804, Idaho Code, be, and the same is hereby amended to read as follows:

54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE. (1) Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

- (a) A medical officer of the armed forces of the United States, of the United States public health service, or of the United States department of veterans affairs, while engaged in the performance of his official duties;
- (b) A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, as long as he does not open an office or appoint a place to meet patients or receive calls in this state;

- (c) A person authorized to practice medicine in another jurisdiction of the United States called upon to conduct an examination in Idaho for the purpose of offering testimony in a criminal or civil legal proceeding;
- (d) A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;
- (de) An ~~extern~~, intern or resident who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules of the board or a physician assistant licensed by the board;
- (ef) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine if acting within the scope of that license;
- (fg) A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;
- (gh) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;
- (hi) A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received. ~~This exception shall specifically include ski patrollers who are members of the national ski patrol system, inc., and are trained in and holding a current outdoor emergency care (OEC) credential, as issued by the national ski patrol system, inc., while rendering aid in accordance with the standards of training of such credential, where no fee for the service is contemplated, charged or received, and in the course of alpine, nordic or cross-country skiing and other recreational activities conducted in whole or in part at ski areas in the state of Idaho;~~
- (ij) A person authorized to practice medicine in another jurisdiction of the United States who briefly provides critical medical service at the specific lawful direction of a medical institution or federal agency that assumes full responsibility for that treatment or service and is approved by the state medical board;
- (k) A person administering a family remedy to a member of the family;
- (~~j~~l) A person who administers treatment or provides advice regarding the human body and its functions ~~that and who:~~
- (i) Does not use legend drugs or prescription drugs in such practice;
 - (ii) Uses natural elements such as air, heat, water and light;
 - (iii) ~~Only u~~Uses only class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;
 - (iv) ~~Only u~~Uses only vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; ~~and who~~
 - (v) Does not perform surgery; and who
 - (vi) Requires each person receiving services to sign a declaration of informed consent ~~which that~~ includes an overview of the health care provider's education ~~which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter; or~~
- (~~k~~m) A physician or physician assistant licensed and in good standing in another jurisdiction of the United States or credentialed in another country who:
- (i) Is affiliated with or employed by an established athletic team, athletic organization or performing arts company temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year; and
 - (ii) Is practicing only on patients, clients or team staff affiliated with or employed by such team, organization or company.

(2) Nothing in subsection (1) (~~km~~) of this section shall be construed to permit a physician or physician assistant to provide care or consultation to any person residing in this state, other than a person specified in subsection (1) (~~km~~) of this section. Further, nothing in subsection (1) (~~km~~) of this section shall be construed to permit a physician or physician assistant to practice at a licensed health care facility in this state or to have prescriptive rights in this state unless in accordance with federal law.

(3) Except as provided in subsection (1) of this section, it shall constitute a felony for any person to practice medicine in this state without a license and upon conviction thereof shall be imprisoned in the state prison for a period not to exceed five (5) years, or shall be fined no more than ten thousand dollars (\$10,000), or shall be punished by both such fine and imprisonment.

(4) Except as provided in subsections (1) (a), ~~(1) (b)~~, and ~~(1) (c)~~ above, and (d) of this section, it is unlawful for any person to assume or use the title or designation "medical doctor," "medical physician," "osteopathic doctor," "osteopathic physician," "physician assistant," "M.D.," or "D.O.," or "P.A.," or any other title, designation, words, letters, abbreviation, sign, card, or device to indicate to the public that such person is licensed to practice medicine pursuant to this chapter unless such person is so licensed, and, upon conviction thereof, such person shall be imprisoned not to exceed one (1) year, or shall be fined no more than three thousand dollars (\$3,000), or shall be punished by both fine and imprisonment.

(5) When a person has been the recipient of services constituting the unlawful practice of medicine, whether or not he knew the rendition of the services was unlawful, proof of the rendition of such unlawful services by the recipient or his personal representative in an action against the provider of such services for damages allegedly caused by the services constitutes prima facie evidence of negligence shifting the burden of proof to such provider of unlawful services. The following damages in addition to any other remedies provided by law may be recovered in such an action:

- (a) The amount of any fees paid for the unlawful services.
- (b) Reasonable attorney's fees and court costs.

(6) The board ~~shall~~ may refer all violations of this section made known to it to appropriate prosecuting attorneys. The board may render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

SECTION 5. That Section 54-1805, Idaho Code, be, and the same is hereby amended to read as follows:

54-1805. THE STATE BOARD OF MEDICINE ESTABLISHED. (1) There is hereby established in the department of self-governing agencies a state board of medicine to be composed of ~~ten~~ eleven (101) members. ~~The membership of the state board of medicine as it exists on the effective date of this act is hereby confirmed as members of the board for the terms to which they were originally appointed.~~

(2) (a) The board shall consist of ~~ten~~ eleven (101) members. The director of the Idaho state police or the director's designated agent shall be a member of the board. Seven (7) members shall be physicians who are residents of this state and engaged in the active practice of medicine in this state, and two (2) members shall be public members, and one (1) member shall be a physician assistant who is a resident of this state and engaged in the active practice of medicine in this state.

(b) All physician and physician assistant appointments to the board shall be for a single six (6) year terms. The physician members shall consist of six (6) members who are licensed to practice medicine and surgery in this state and one (1) member who is licensed to practice osteopathic medicine ~~or osteopathic medicine and surgery~~ in this state.

The physician assistant member shall be licensed to practice medicine in this state. Whenever a term of a member of the board who is licensed to practice medicine and surgery or osteopathic medicine expires or becomes vacant, the Idaho medical association shall recommend three ~~(3) persons licensed to practice medicine and surgery for each such vacancy, and forward such recommendations to the governor who shall consider them for appointment, as well as recommendations from any individual residing in this state.~~ Whenever a term of the member of the board who is licensed to practice osteopathic medicine or osteopathic medicine and surgery expires or becomes vacant, the Idaho osteopathic association shall recommend three ~~(3) persons licensed to practice osteopathic medicine or osteopathic medicine and surgery for such vacancy, and shall forward their names to the governor who shall consider them for appointment, as well as recommendations from any individual residing in this state~~ governor shall consider recommendations provided by professional organizations of physicians and physician assistants and by any individual residing in this state for appointment.

(c) All public members shall be appointed by the governor for three (3) year terms. Public members must reside in the state and be persons of integrity and good reputation who have lived in this state for at least five (5) years immediately preceding their appointment, who have never been authorized to practice a healing art, and who have never had a substantial personal, business, professional, or pecuniary connection with a healing art or with a medical education or health care facility, except as patients or potential patients.

(3) Appointments to fill vacancies occurring from some other reason than expiration of a term for which a member was appointed, shall be made in the same manner as hereinabove set forth for the unexpired term. All board members shall serve at the pleasure of the governor.

(4) The board shall elect a chairman from its membership. The members of the board, except for state employees, shall be compensated as provided by section 59-509 (np), Idaho Code. ~~Five Six~~ (56) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

SECTION 6. That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.

(2) Establish, pursuant to the administrative procedure act, rules for administration of this chapter, including rules governing all activities of persons employed as physician's assistants by persons licensed to practice medicine in this state. ~~The board shall adopt rules pursuant to the administrative procedure act establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when the board has authorized the committee to board staff has undertaken to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or its board staff before the initiation of formal disciplinary proceedings by the board.~~

(3) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.

(4) The board shall have the power in any investigation or disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner consistent with rules adopted by the board pursuant to the administrative procedure act, and, upon a determination that there is good cause, the board shall have power through-

out the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may deem appropriate for any investigation, deposition or hearing. For that purpose, the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board to compel compliance with the subpoena by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such formal contested case shall have the same right of subpoena upon making application to the board therefor.

(5) Seek injunctive relief prohibiting the unlawful practice of medicine.

(6) Make and enter into contracts.

(7) Operate, manage, superintend and control the licensure of physicians and physician assistants.

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.

(9) Perform such other duties as set forth in the laws of this state.

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.

(11) Apply the provisions of section 12-117(5), Idaho Code, regarding the assessment of costs and fees incurred in the investigation and prosecution or defense of a licensee under this chapter.

(12) Prepare an annual report.

(13) Share with the department of labor personal identifying information of persons licensed under the provisions of this chapter necessary for the department of labor to identify workforce shortage areas in Idaho. The information provided to the department of labor concerning any person licensed under this chapter shall remain confidential and not subject to public disclosure, as required in section 74-106, Idaho Code.

SECTION 7. That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806A. MEDICAL DISCIPLINARY ENFORCEMENT. The board of medicine shall create a committee on professional discipline which shall have the authority under the direct supervision and control of the board to conduct professional disciplinary enforcement investigations under this chapter and particularly under sections 54-1810 and 54-1814, Idaho Code, and to recommend appropriate action to the board with respect thereto. The committee on professional discipline shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. The board shall provide as follows respecting the committee on professional discipline:

(1) Membership. The committee shall consist of five (5) members appointed by the board. ~~Initially, it shall consist of the members of the board of professional discipline as it is constituted on the effective date of this~~

~~act who shall serve on the committee on professional discipline until the expiration of their current terms. Thereafter, it shall consist of: four~~ (4) members licensed to practice medicine and surgery in the state of Idaho, two (2) of whose terms shall expire at midnight on June 30 in each of two (2) successive years, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire at midnight on June 30 in the year in which no physician member's term shall expire. All terms of appointment shall be for three (3) years. No member of the committee on professional discipline may be appointed after the effective date of this act to serve more than two (2) terms ~~(which shall include terms served on the board of professional discipline prior to the effective date of this act).~~

(2) Chairman. The board of medicine shall designate one (1) member of the committee as its chairman who shall serve and function in that capacity for one (1) year or until a successor is duly appointed, whichever is later.

(3) Quorum. Three (3) members shall constitute a quorum ~~though no meeting of the committee shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.~~

(4) Compensation. Members of the committee shall be compensated as provided by section 59-509 (np), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on the committee.

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

(6) Additional Powers of the Committee on Professional Discipline. ~~In addition to its other powers, t~~The committee shall be empowered and authorized:

(a) ~~To recommend to the board that it be authorized by the board to initiate or commence proceedings, studies or investigations, to investigate or inquire into misconduct or unprofessional behavior and to recommend that the board take such action with respect thereto as it deems best in the interest of the public and justice, and to obtain the assistance of staff and legal counsel hired by the board of medicine to administer, process and assist in its work.~~

(b) ~~To recommend to the board that it be authorized by the board to appoint hearing officers or hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to the committee in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the board directs, composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. All investigations and proceedings of the committee and any hearing officers or hearing committees shall be conducted as provided by rules adopted by the board of medicine pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code.~~

(c) ~~To recommend findings respecting matters coming before it or before any hearing committee or authorized hearing officer acting on its behalf, and to recommend conclusions and orders for the consideration of the board dispositive of such proceedings. The committee may make recommendations for the consideration of the board and the board is authorized to enter appropriate orders and take appropriate action including, without limitation, disciplinary orders as provided by Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice~~

~~medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.~~

~~(d) To recommend that the board reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to chapter 1, title 74, Idaho Code.~~

~~(e) To recommend that the board accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.~~

~~(f) To recommend that the board order initiate, for good cause, nondisciplinary suspension or transfer to inactive status of proceedings under the disabled physicians act for any licensed physician and surgeon or physician assistant incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether heretofore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.~~

~~(gc) To recommend that the board provide by order for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon or physician assistant disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.~~

~~(h) To recommend that the board adopt rules to provide for and permit the committee to conduct informal proceedings to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.~~

(7) Openness. All formal hearings conducted by the board or by the committee under the board's direction and control shall be open to the public. Formal dispositions or other formal actions taken by the board under sections 54-1806 and 54-1806A, Idaho Code, also shall be public. Proceedings, studies and investigations which do not result in formal hearings, formal dispositions or other formal actions by the board shall be conducted in private and shall remain confidential.

(8) Voluntary Restriction of Licensure. A physician may request in writing to the board or the committee a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, to attach conditions to the licensure of the physician to practice medicine. The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the medical practice act if in the interest of justice it determines that such voluntary proceedings restrictions have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the medical practice act or by rule of the board; provided also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.

(9) Adjudication of Discipline or Exoneration. The board shall make a determination of the merits of all proceedings, studies and investigations and, if grounds therefor are found to exist, may issue its order:

- (a) Revoking the respondent physician's or physician assistant's license to practice medicine;
- (b) Suspending or restricting the respondent physician's or physician assistant's license to practice medicine;
- (c) ~~Imposing conditions or probation upon the respondent physician and requiring rehabilitation planning, commitment and conditions upon such respondent physician's licensure~~ or physician assistant's license, including requiring rehabilitation or remediation;
- (d) Issuing a public reprimand;
- (e) Imposing an administrative fine not to exceed ten thousand dollars (\$10,000) for each count or offense; and/or
- (ef) Assessing costs and attorney's fees against the respondent physician for any investigation and/or administrative proceeding.

~~If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof~~ Every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice, and all investigations, proceedings, and hearings conducted pursuant to this act shall be conducted in accordance with the administrative procedure act, chapter 52, title 67, Idaho Code, and any rules adopted by the board pursuant thereto.

(10) Temporary Suspension or Restriction Pending Final Order. The board may temporarily suspend or restrict the license of any physician ~~or enter an appropriate order of temporary probation, ex parte, or physician assistant~~ on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this chapter, ~~but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and or physician assistant, for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings.~~ Thereafter the physician or physician assistant may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before ~~the board or a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its his~~ report and recommendations. The board, consistent with due process and the rules adopted by the board pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. ~~Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.~~

(11) Judicial Review. All final decisions by the board shall be subject to judicial review pursuant to ~~the procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.~~

(12) Protected Action and Communication. There shall be no liability on the part of and no action for damages against:

(a) Any member of the board, the committee on professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of the board or the committee under this chapter when acting ~~without malice~~ in good faith and in the reasonable belief that such action is warranted; or

(b) Any person providing information or testimony to the board, the committee, or their staff or officials ~~without malice~~ in good faith and in the reasonable belief that such information is accurate.

SECTION 8. That Section 54-1807, Idaho Code, be, and the same is hereby amended to read as follows:

54-1807. STATE BOARD OF MEDICINE -- REGISTRATION. ~~Externs,~~ iInterns and residents must register with the board prior to the commencement of any activities constituting the practice of medicine in this state. Registration shall include disclosure of the applicant's prior education and training, the program or course of study the ~~extern,~~ intern or resident intends to follow, the physicians or group of physicians who will supervise the program or course of study and such other information as the board deems relevant. The board shall reserve the right to approve any such program or course of study and shall require registration by the supervising physician. A registration fee shall be fixed by the board and registration must be renewed annually or biannually.

SECTION 9. That Section 54-1807A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1807A. PHYSICIAN ASSISTANTS -- SUPERVISING PHYSICIANS -- PHYSICIAN ASSISTANT ADVISORY COMMITTEE. (1) Physician assistants must be licensed by the board prior to the commencement of activities which may involve the practice of medicine in this state. The licensure requirements for physician assistants shall include passage of an examination acceptable to the board and submission of a completed application to the board on forms furnished by the board. All applicants for original licensure as a physician assistant shall submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded by the board to the Idaho department of law enforcement and to the federal bureau of investigation identification division. ~~The board shall determine and limit the scope of activities of each physician assistant on the basis of completed courses of study or programs of instruction received.~~ Upon licensure, the board shall authorize each physician assistant to assist a physician or group of physicians who are qualified and approved by the board to supervise physician assistants to engage in activities as limited by the board. The board shall fix a license fee. All physician assistants shall renew their licenses annually or biannually.

(2) After a supervising physician or alternate supervising physician receives board approval to supervise a physician assistant, the physician may delegate medical services to the physician assistant as set forth in the delegation of services agreement on forms approved by and filed with the board. The physician assistant may perform delegated medical services in any setting authorized by the supervising physician or alternate supervising physician and the board, including clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other health care institutions.

(3) The supervising physician and alternate supervising physician are responsible for all aspects of the performance of a physician assistant, whether or not the supervising physician or alternate supervising physician actually pays the physician assistant a salary. ~~The supervising physician and alternate supervising physician, and~~ are responsible for supervising the physician assistant and ensuring that the medical services performed by the physician assistant are within the physician assistant's scope of training and experience and have been properly delegated by the supervising physician or alternate supervising physician.

(4) Supervision by a supervising physician or alternate supervising physician shall be continuous but shall not be construed as necessarily requiring the constant physical presence of the supervising physician or alternate supervising physician at the time and place where medical services are performed by the physician assistant.

(5) A supervising physician or alternate supervising physician shall not delegate to a physician assistant the performance of any medical services for which the supervising physician or alternate supervising physician does not have training or experience and does not perform.

(6) A physician assistant or a group of physician assistants may independently own a medical practice in this state provided that the supervising physician, alternate supervising physician and each physician assistant comply with all requirements of this section and board rules. Each physician assistant must be licensed, registered or certified as a physician assistant in any state, territory or jurisdiction of the United States for at least two (2) years before the physician assistant may independently own a practice in this state.

(7) A physician assistant advisory committee is hereby established as follows:

(a) ~~The physician assistant advisory committee shall consist of three five (35) members appointed by the board. In making appointments to fill a vacancy created by the expiration of a term Four (4) members shall be physician assistants who are residents in this state and engaged in the active practice of medicine in this state, and one (1) member shall be a public member. Whenever a term of a member of the advisory committee expires or becomes vacant, the board shall give consideration to recommendations made by professional organizations of physician assistants and physicians. The board shall send notice to such professional organizations requesting recommendations. If recommendations from such professional organizations are not received by the board within sixty (60) days of notification, the board may appoint any qualified individual without consideration of any such recommendations. In the event of a vacancy in any unexpired term, the professional organizations may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. As soon as practical, the board shall appoint one (1) person to complete the unexpired term. If such professional organizations do not provide recommendations, the board shall appoint a person to complete the unexpired term without consideration of any such recommendations, and any individual residing in the state. The board may remove any committee member for misconduct, incompetency or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The executive director of the Idaho state board of medicine shall serve as the executive director to the physician assistant advisory committee.~~

(b) ~~Each member of the physician assistant advisory committee shall be currently licensed as a physician assistant in Idaho and shall have actively practiced as a physician assistant in Idaho for three (3) years immediately preceding appointment. Members will serve a term of three (3) years and terms will be staggered. Members may serve two (2) successive terms. The committee shall elect a chairman from its membership.~~

The committee shall meet as often as necessary to fulfill its responsibilities. Members will be compensated according to section 59-509 (ap), Idaho Code.

(c) The physician assistant advisory committee shall not have authority to revoke licenses or impose limitations or conditions on licenses issued pursuant to this chapter. The committee has authority to make recommendations to the board. The board shall make all final decisions with respect thereto.

(d) The physician assistant advisory committee shall work in the following areas in conjunction with and make recommendations to the board and shall perform other duties and functions assigned to it by the board, including:

- (i) Evaluating the qualifications of applicants for licensure and registration;
- (ii) Performing investigations of misconduct and making recommendations regarding discipline;
- (iii) Maintaining a list of currently licensed physician assistants and graduate physician assistants in this state; and
- (iv) Advising the board on rule changes necessary to license and regulate physician assistants and graduate physician assistants in this state.

SECTION 10. That Section 54-1808, Idaho Code, be, and the same is hereby amended to read as follows:

54-1808. BOARD TO ISSUE LICENSES. (1) The board shall issue licenses to practice medicine and surgery, and osteopathic medicine and surgery, to persons who have qualified therefor in accordance with the provisions of this act. The board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by section 54-1814, Idaho Code. Provided, that the board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. Such licenses shall be issued after payment of a licensing fee in an amount to be fixed by the board, and such licenses shall be issued for a period of ~~not less than one (1) year nor no~~ more than five (5) years, the exact period to be fixed by the board. Licenses to practice medicine and surgery, osteopathic medicine and surgery, and osteopathic medicine shall be renewed on their expiration upon completion of a renewal application and upon payment of a renewal fee, the amount of which is to be fixed by the board.

(2) The board may renew on an inactive basis, the license of a physician or physician assistant who is not practicing medicine in this state. The board shall fix and collect an inactive license fee for each inactive license renewal, and each inactive license shall be issued for a period of ~~not less than one (1) year nor no~~ more than five (5) years, the exact period to be fixed by the board. A physician or physician assistant holding an inactive license may not engage in the practice of medicine in this state. If a physician person wishes to convert his inactive license to an active license, he must account to the board for that period of time in which he held an inactive license.

(3) Whenever the board determines that an applicant for a license to practice medicine and surgery, or osteopathic medicine and surgery is not qualified for such a license pursuant to the provisions of this act, the board shall notify the applicant by certified mail of its denial of licensure and the reasons for denial.

SECTION 11. That Section 54-1809, Idaho Code, be, and the same is hereby amended to read as follows:

54-1809. STATE BOARD OF MEDICINE FUND -- CREATION OF. All fees of any kind collected under the provisions of this act shall be deposited in the state treasury to the credit of a separate fund to be known as the state board of medicine fund and ~~all such moneys as are now in or may hereafter come into such fund are hereby appropriated to the board to be used~~ for carrying out the purposes and ~~objects~~ objectives of this act, and to pay all costs and expenses incurred in connection therewith. ~~All moneys in the state board of medicine fund on the effective date of this act are hereby transferred and appropriated to the state board of medicine fund hereby created.~~ Moneys shall be paid out of the fund upon warrants drawn by the state controller upon presentation of proper vouchers approved by the board.

SECTION 12. That Section 54-1810, Idaho Code, be, and the same is hereby amended to read as follows:

54-1810. PHYSICIAN LICENSURE BY WRITTEN EXAMINATION. Any person seeking to be licensed to practice medicine and surgery or osteopathic medicine ~~or osteopathic medicine and surgery~~ as a physician in this state must successfully complete the following requirements before a license will be issued:

(1) Each applicant must submit a completed written application to the board on forms furnished by the board which shall require proof of graduation from a medical school acceptable to the board and successful completion of a postgraduate training program acceptable to the board. The application shall require a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant must submit a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho state police and the federal bureau of investigation identification division for this purpose or for the purpose of qualifying an applicant for an expedited license as the state of principal license as provided in section 54-1847, Idaho Code. The board shall not disseminate data acquired from a fingerprint-based criminal history check except as allowed by law.

(2) Each applicant must pass an examination conducted by or acceptable to the board which shall thoroughly test the applicant's fitness to practice medicine. If an applicant fails to pass any step of the examination on two (2) separate occasions, ~~he shall not be eligible to take the examination for at least one (1) year, and before taking the examination again, he must make a showing to the board that he has successfully engaged in a course of study for the purpose of improving his ability to engage in the practice of medicine. Applicants who fail two (2) separate examinations in another state, territory, or district of the United States or Canada, must make the same showing of successful completion of a course of study prior to examination for licensure~~ the applicant may be required to be interviewed, evaluated, or examined by the board.

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

SECTION 13. That Chapter 18, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1810A, Idaho Code, and to read as follows:

54-1810A. PHYSICIAN ASSISTANT LICENSURE. Any person seeking to be licensed to practice medicine as a physician assistant in this state must successfully complete the following requirements before a license will be issued:

(1) Each applicant must submit a completed written application to the board on forms furnished by the board, which shall require proof of a college baccalaureate degree from a nationally accredited school and completion of a physician assistant training program acceptable to the board and accredited by the accreditation review commission on education for physician assistants;

(2) Each applicant must submit proof of current certification by the national commission on certification of physician assistants or similar certifying agency approved by the board; and

(3) The application shall require a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant must submit a full set of the applicant's fingerprints on forms supplied by the board, which shall be forwarded to the Idaho state police and the federal bureau of investigation identification division for this purpose. The board shall not disseminate data acquired from a fingerprint-based criminal history check except as allowed by law.

SECTION 14. That Section 54-1811, Idaho Code, be, and the same is hereby amended to read as follows:

54-1811. PHYSICIAN LICENSURE BY ENDORSEMENT. Any person seeking to be licensed to practice medicine as a physician in this state who is licensed to practice medicine in another state must successfully complete the following requirements before a license to practice medicine will be issued:

(1) Each applicant must submit a completed written application to the board on forms furnished by the board which shall require proof ~~of graduation from a medical school acceptable to the board and successful completion of a postgraduate training program acceptable to the board and which contains proof that the applicant has any one (1) of the following qualifications:~~

~~(a) The applicant is a diplomate of the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons;~~

~~(b) The that the applicant holds a valid, unrevoked, unsuspended license to practice medicine and ~~surgery~~, or osteopathic medicine and ~~surgery~~ in a state, territory or district of the United States or Canada, and the applicant demonstrates that he possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. The board may require further examination to establish such qualifications. An applicant with any disciplinary action, including past, pending, or confidential, by any board of medicine, licensing authority, medical society, professional society, hospital, medical school, or institution staff in any state, territory, district, or country is not eligible for licensure by endorsement.~~

(2) The application shall require a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant must submit a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho state police and the federal bureau of investigation identification division for this purpose or for the purpose of qualifying an applicant for an expedited license as the state of principal license as provided in section 54-1847, Idaho Code. The board shall not disseminate data acquired from a fingerprint-based criminal history check except as allowed by law.

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

SECTION 15. That Section 54-1813, Idaho Code, be, and the same is hereby amended to read as follows:

54-1813. TEMPORARY LICENSE AND REGISTRATION. (1) The board may by rule provide for the issuance of a temporary license to a person licensed to practice medicine and surgery or osteopathic medicine and surgery in some other state, territory or district of the United States or Canada or to a person who is a diplomate of the national board of medical examiners or a diplomate of the national board of osteopathic medical examiners for osteopathic physicians and surgeons or to a physician assistant, excluding any volunteer license applicant, provided that such temporary license shall be issued only to persons who have made an application for a permanent license in this state. The board shall fix and collect a fee for a temporary license and it shall be valid from the date of issuance ~~to the next regular meeting of the board for one hundred twenty (120) days~~, unless extended by the board or its designated representative upon a showing of good cause.

(2) The board may by rule provide for temporary registration of externs, interns, and residents. The board shall fix and collect a fee for the temporary registration and it shall specify the time period of the temporary registration.

SECTION 16. That Section 54-1814, Idaho Code, be, and the same is hereby amended to read as follows:

54-1814. GROUNDS FOR MEDICAL DISCIPLINE. Every person licensed to practice medicine, ~~licensed to practice as a physician assistant or registered as an extern, intern or resident~~ in this state is subject to discipline by the board pursuant to the procedures set forth in this chapter and rules promulgated pursuant thereto upon any of the following grounds:

(1) ~~Conviction~~ Being convicted of a felony, ~~or a crime involving moral turpitude, or the entering of a plea of pleading guilty to a felony~~, or the finding of guilt by a jury or court of commission of a felony ~~or a crime involving moral turpitude~~.

(2) ~~Use of~~ Using false, fraudulent or forged statements or documents, diplomas or credentials in connection with any licensing or other requirements of this act.

(3) Practicing medicine under a false or assumed name in this or any other state.

(4) Advertising the practice of medicine in any unethical or unprofessional manner.

(5) Knowingly aiding or abetting any person to practice medicine who is not authorized to practice medicine as provided in this chapter.

(6) Performing or procuring an unlawful abortion or aiding or abetting the performing or procuring of an unlawful abortion.

(7) ~~The provision of~~ Providing health care which fails to meet the standard of health care provided by other qualified physicians or physician assistants in the same community or similar communities, taking into account his training, experience and the degree of expertise to which he holds himself out to the public.

(8) ~~Division of~~ Dividing fees or gifts or agreement agreeing to split or divide fees or gifts received for professional services with any person, institution or corporation in exchange for referral.

(9) Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.

(10) Inability to obtain or renew a license to practice medicine, or revocation of, ~~or suspension, or other discipline~~ of a license to practice medicine by any other state, territory, district of the United States or Canada, unless it can be shown that such action was not related to the

competence of the person to practice medicine or to any conduct designated herein.

(11) Prescribing or furnishing narcotic or hallucinogenic drugs to addicted persons to maintain their addictions and level of usage without attempting to treat the primary condition requiring the use of narcotics.

(12) Prescribing or furnishing narcotic, hypnotic, hallucinogenic, stimulating or dangerous drugs for other than treatment of any disease, injury or medical condition.

(13) ~~Failure~~ Failing to safeguard the confidentiality of medical records or other medical information pertaining to identifiable patients, except as required or authorized by law.

(14) ~~The direct promotion by a physician of~~ Directly promoting the sale of drugs, devices, appliances or goods to a patient that are unnecessary and not medically indicated.

(15) ~~Abandonment of~~ Abandoning a patient.

(16) Willfully and intentionally representing that a manifestly incurable disease or injury or other manifestly incurable condition can be permanently cured.

(17) ~~Failure~~ Failing to supervise the activities of externs, interns, residents, nurse practitioners, certified nurse-midwives, clinical nurse specialists, or physician assistants.

(18) Practicing medicine when a license pursuant to this chapter is suspended, revoked or inactive.

(19) Practicing medicine in violation of a voluntary restriction or terms of probation pursuant to this chapter.

(20) Refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment, or infirmity.

(21) ~~Commission of~~ Committing any act constituting a felony ~~or commission of any act constituting a crime involving moral turpitude.~~

(22) Engaging in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient.

(23) Being convicted of or pleading guilty to driving under the influence of alcohol, drugs or other intoxicating substances or being convicted of or pleading guilty to other drug or alcohol related criminal charges.

(24) ~~Failure~~ Failing to comply with a board order entered by the board.

(25) ~~Failure~~ Failing to comply with the requirements of the abortion complications reporting act, chapter 95, title 39, Idaho Code.

(26) Engaging in a pattern of unprofessional or disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient. Such behavior does not have to have caused actual patient harm to be considered unprofessional or disruptive.

(27) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats of harassment against any patient, member of a board or committee on professional discipline, board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action.

(28) Delegating professional responsibilities to:

(a) An unlicensed person when the licensee knows or has reason to know that such person is not qualified by training, experience, or license to carry them out; or

(b) A person licensed by this state to engage in activities which may involve the practice of medicine when the delegating licensee knows or has reason to know that the delegated activities are outside the licensed person's scope of practice.

(29) Failure to report the charge or conviction of a felony to the board within thirty (30) days of the charge.

SECTION 17. That Section 54-1817, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Section 54-1818, Idaho Code, be, and the same is hereby amended to read as follows:

54-1818. REPORTING OF VIOLATIONS BY PHYSICIANS. A licensed physician ~~and surgeon or physician assistant~~ possessing knowledge of a violation of section 54-1814, Idaho Code, by any other physician ~~and surgeon or physician assistant~~ licensed to practice medicine in Idaho shall with reasonable promptness report such knowledge to the board of medicine or its duly authorized committee, agency or representative, and failure to do so shall subject such person to disciplinary action by the state board of medicine as in its discretion the board shall deem proper, pursuant to procedures provided in chapter 18, title 54, Idaho Code; provided, no person shall be civilly liable for communications, reports or acts of any kind made, given or handled under the provisions of this act. However, notwithstanding the foregoing, no physician or ~~surgeon~~ physician assistant shall be required to report, nor shall any physician or ~~surgeon~~ physician assistant report, any information known, learned or discovered by that ~~physician or surgeon~~ person as a result of participation in peer review or access to peer review records, as defined in section 39-1392a, Idaho Code. This provision shall not relieve a health care organization of its notification obligations as set forth in section 39-1393, Idaho Code.

SECTION 19. That Section 54-1819, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Section 54-1831, Idaho Code, be, and the same is hereby amended to read as follows:

54-1831. SHORT TITLE. This act shall be known as the "Disabled Physician and Physician Assistant Act."

SECTION 21. That Section 54-1832, Idaho Code, be, and the same is hereby amended to read as follows:

54-1832. GROUNDS FOR RESTRICTION, SUSPENSION, OR REVOCATION OF LICENSE. The license of any physician or physician assistant to practice medicine in this state shall be subject to restriction, suspension, or revocation, as hereinafter provided, in case of inability of the licensee to practice medicine with reasonable skill or safety to patients by reason of one (1) or more of the following:

- (a~~1~~) ~~m~~Mental illness;
- (b~~2~~) ~~p~~Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill; or
- (e~~3~~) ~~e~~Excessive use or abuse of drugs, including alcohol.

SECTION 22. That Section 54-1833, Idaho Code, be, and the same is hereby amended to read as follows:

54-1833. DUTIES OF BOARD OF MEDICINE. (a~~1~~) If the board of medicine ("board") has reasonable cause to believe that a physician or physician assistant licensed to practice medicine in this state is unable to practice medicine with reasonable skill and safety to patients because of a condition described in section 54-1832, ~~such Idaho Code,~~ the board shall ~~cause an examination of such physician to be made and shall, following such examination,~~

take appropriate action within the provisions of this act serve upon the physician or physician assistant a notice of hearing on the sole issue of the capacity of the physician or physician assistant to competently and safely engage in the practice of medicine.

(b) Examination of a physician under this section shall be conducted by an examining committee which the board shall designate and which shall be composed of three (3) licensed, practicing physicians including at least one (1) psychiatrist if a question of mental illness is involved in the particular examination of the particular physician in any given case.

(2) Every physician and physician assistant who accepts the privilege of being licensed under this chapter gives consent to:

(a) Submitting at the licensee's own expense to an immediate mental or physical examination when directed in writing by the board to do so; and

(b) The admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(3) The examination may be ordered by the board, only upon a finding of reasonable cause to believe:

(a) The physician or physician assistant is unable to practice medicine with reasonable skill and safety because of a condition described in section 54-1832, Idaho Code; and

(b) Immediate action by the board is necessary to prevent harm to patients or the general public.

(4) Failure of a physician to submit to the examination ordered under this section is a ground for the board's immediate suspension of the physician's license by written order.

SECTION 23. That Section 54-1834, Idaho Code, be, and the same is hereby repealed.

SECTION 24. That Section 54-1835, Idaho Code, be, and the same is hereby repealed.

SECTION 25. That Section 54-1836, Idaho Code, be, and the same is hereby repealed.

SECTION 26. That Section 54-1837, Idaho Code, be, and the same is hereby amended to read as follows:

54-18374. PROCEEDINGS. (a1) The board may proceed against a physician or physician assistant under this act by serving upon such physician or physician assistant at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician licensee either personally or by registered or certified mail with return receipt requested.

(b2) At said hearing the physician licensee shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(3) The results of any examination ordered by the board pursuant to section 54-1833(c), Idaho Code, including evidence and testimony offered by the examining physician shall be admissible at said hearing, along with any other evidence, or witness testimony relevant to the licensee's fitness to practice.

(e4) At the conclusion of the hearing, the board shall make a determination of the merits and, if grounds therefor are found to exist, may issue an order imposing one (1) or more of the following:

(1a) ~~Make a A recommendation that the physician licensee submit to the care, counseling, or treatment by physicians acceptable to the board; or~~

(2b) ~~Suspend or restrict the license of the physician Suspension or restriction of the licensee's license to practice medicine for the duration of his impairment; or~~

(3c) ~~Revoke Revocation of the licensee's license of the physician to practice medicine; and if~~

(d) ~~If grounds are not found to exist, the board shall enter its order so stating, shall dismiss the proceedings and shall provide the respondent a true copy thereof.~~

~~(d) The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on petition of the examining committee, pending further or final order without prior hearing, simultaneously with or at any time after the institution of proceedings for a hearing under this section, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician, in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, is causing great harm to the public, or to any patient or group of patients, or is likely to cause such harm and therefore should be immediately suspended, restricted or specially controlled in or from the practice of medicine.~~

~~(1) In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings.~~

~~(2) In cases of extreme emergency the board may enter said temporary order under this section without prior referral to or recommendation from the examining committee.~~

~~(3) In cases in which the examining committee first determines that such temporary suspension, restriction or probation of such physician is necessary and in the public interest pending the final conclusion of proceedings or further order, it shall so recommend to the board, and the board, if it finds that the evidence in support of such determination and recommendation is clear and convincing and that the physician's continuation in the practice would constitute an imminent danger to public health and safety or pose a threat or menace of the kind hereinabove specified, may, in its discretion, enter an order in keeping with the recommendation of the examining committee or provide such modifications, conditions or orders as it deems appropriate.~~

~~(4) The physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or, if necessary and on request of the physician in the interest of early consideration, before a hearing officer or special committee designated by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendation. The board, consistent with due process, shall rule with the least amount of delay reasonably possible.~~

~~(e) Neither the record of the proceeding nor any order entered against a physician may be used against him in any other legal proceeding except upon judicial review as provided herein, it being the intent and purpose of this act that all evidence, testimony, showings and proceedings are subject to disclosure according to chapter 1, title 74, Idaho Code, but not to be used in criminal or civil proceedings concerning the subject physician.~~

SECTION 27. That Section 54-1838, Idaho Code, be, and the same is hereby amended to read as follows:

54-18385. RIGHT TO APPEAL AND REINSTATEMENT OF LICENSE. (a1) ~~A physician whose license has been restricted, suspended or revoked under this act, voluntarily or by action of the board, shall have a right, at reasonable intervals, to petition for reinstatement of his license and to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients. Such petition shall be made in writing and on a form prescribed by the board. Action of the board on such petition shall be initiated by referral to and examination by the examining committee pursuant to the provisions of sections 54-1834 and 54-1835. The board may, upon written recommendation of the examining committee, restore the licensure of the physician on a general or limited basis or institute a proceeding pursuant to this section for the determination of the fitness of the physician to resume his practice.~~ A physician or physician assistant whose license is suspended under section 54-1833(4) has the right to a hearing to appeal the suspension within ten (10) days after the license is suspended. The hearing held under this subsection shall be conducted in accordance with section 54-1834, Idaho Code, for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the licensee's patients or the general public.

(2) A physician or physician assistant whose license is revoked, suspended, or in any way restricted under section 54-1833 or 54-1834, Idaho Code, may request that the board consider, at reasonable intervals, evidence presented by the physician or physician assistant under procedures established by rule, regarding any change in the licensee's condition to determine whether the licensee is or is not able to safely and competently engage in the practice of medicine; and is qualified to have the physician or physician assistant license to practice under this chapter restored completely or in part.

SECTION 28. That Section 54-1839, Idaho Code, be, and the same is hereby amended to read as follows:

54-18396. JUDICIAL REVIEW. All final decisions by the board of medicine shall be subject to judicial review pursuant to the procedures of the administrative procedures act, chapter 52, title 67, Idaho Code.

SECTION 29. That Section 54-1840, Idaho Code, be, and the same is hereby repealed.

SECTION 30. That Section 54-1841, Idaho Code, be, and the same is hereby amended to read as follows:

54-1841. VOLUNTEER'S LICENSE -- QUALIFICATIONS. (1) Upon application and qualification, the board may issue, without examination, a volunteer's license to a physician or physician assistant who is retired from the active practice of medicine and surgery or osteopathic medicine and surgery to enable the retired physician or physician assistant to provide medical services to persons who, due to age, infirmity, indigence or disability, are unable to receive regular medical treatment.

(2) (a) For purposes of this section, a physician or physician assistant previously holding a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathic medicine with active status in Idaho or another state shall be considered to be retired if, prior to the date of application for a volunteer's license:

(i) He has surrendered or allowed his license with active status to expire with the intention of ceasing to actively practice as a physician or physician assistant for remuneration;

(ii) He has converted his license with active status to a license with inactive status with the intention of ceasing to actively

practice as a physician or physician assistant for remuneration;
or

(iii) He has converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of medicine ~~and surgery~~ or osteopathic medicine ~~and surgery~~.

(b) A physician or physician assistant whose license had been restricted, suspended, revoked, surrendered, resigned, converted, or allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action being taken shall not be eligible for a volunteer's license.

(3) An application for a volunteer's license shall include, but not be limited to, the following:

(a) Verification of graduation from an acceptable school of medicine or an acceptable osteopathic school of medicine or an acceptable physician assistant program;

(b) Verification from each state board in which the applicant was licensed that the applicant maintained his license in good standing without disciplinary action that restricted the applicant's license or resulted in the applicant's license being placed on probation, suspended, revoked or being surrendered, resigned or otherwise allowed to lapse or expire in lieu of disciplinary action;

(c) Verification that the applicant held a license in good standing in Idaho or another state as of the date upon which the physician or physician assistant became retired;

(d) Verification that the applicant held an active status license in good standing in Idaho or another state within five (5) years of the date of application for a volunteer's license, provided, that the board may waive the five (5) year requirement in the event that the applicant demonstrates that he possesses the knowledge and skills requisite to the practice of medicine ~~and surgery~~ or osteopathic medicine ~~and surgery~~ by successfully completing such examinations as are required by the board; and

(e) A notarized statement from the applicant on a form prescribed by the board, that the applicant will not provide any physician or physician assistant services to any person other than those permitted by the license and that the applicant will not accept any amount or form of remuneration, other than as reimbursement for the amount of actual expenses incurred as a volunteer physician or physician assistant, for any physician or physician assistant services provided under the authority of a volunteer's license.

(4) A volunteer's license shall be valid for that period specified for physicians or physician assistants in section 54-1808, Idaho Code, and may be renewed upon application of the licensee unless the license has been revoked in accordance with this section. The board shall maintain a register of all physicians or physician assistants who hold a volunteer's license. The board shall not charge an application or licensing fee for issuing or renewing a volunteer's license. A volunteer's license cannot be converted to a license with active, inactive or temporary status.

(5) The board may revoke a volunteer's license upon receiving proof satisfactory to the board that grounds existed for enforcement or disciplinary action against the holder of a volunteer's license under other sections of this chapter or the administrative rules promulgated under this chapter.

SECTION 31. That Section 56-1012, Idaho Code, be, and the same is hereby amended to read as follows:

56-1012. DEFINITIONS. As used in sections 56-1011 through 56-1023, Idaho Code:

(1) "Advanced emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) "Agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) "Air ambulance" means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) "Air medical service" means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) "Ambulance" means any privately or publicly owned motor vehicle or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) "Ambulance service" means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) "Applicant" means any organization that is requesting an agency license under this chapter and includes the following:

(a) An organization seeking a new license;

(b) An existing agency that intends to change the level of licensed personnel it utilizes;

(c) An existing agency that intends to change its geographic coverage area, except by agency annexation;

(d) An existing nontransport service that intends to provide ambulance service;

(e) An existing ambulance service that intends to discontinue transport and become a nontransport service.

(8) "Board" means the Idaho board of health and welfare.

(9) "Commission" means the Idaho emergency medical services physician commission.

(10) "Community emergency medical technician" or "community EMT" means an emergency medical technician or advanced emergency medical technician with additional standardized training who works within a designated community health emergency medical services program under local medical control as part of a community-based team of health and social services providers.

(11) "Community health emergency medical services" or "community health EMS" means the evaluation, advice or treatment of an eligible recipient outside of a hospital setting, which is specifically requested for the purpose of preventing or improving a particular medical condition, and which is provided by a licensed emergency medical services agency. Community health EMS involving or related to emergency response must be provided by or in coordination with the primary 911 response agency for that area.

(12) "Community paramedic" means a paramedic with additional standardized training who works within a designated community health emergency med-

ical services program under local medical control as part of a community-based team of health and social services providers.

(13) "Department" means the Idaho department of health and welfare.

(14) "Eligible recipient" means an individual eligible to receive community health emergency medical services, as determined by rule of the EMS bureau or a local community health emergency medical services program.

(15) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(16) "Emergency medical services" or "EMS" means aid rendered by an individual or group of individuals who do the following:

(a) Respond to a perceived need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Are prepared to provide interventions that are within the scope of practice as defined by the commission;

(c) Use an alerting mechanism to initiate a response to requests for medical care; and

(d) Offer, advertise or attempt to respond as described in paragraphs (a) through (c) of this subsection.

~~Aid rendered by a ski patroller, as described in section 54-1804(1)(h), Idaho Code, is not EMS.~~

(17) "EMS bureau" means the bureau of emergency medical services of the department.

(18) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(19) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.

(20) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.

(21) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(22) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(23) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(24) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of

licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.

(25) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

Approved February 19, 2019

CHAPTER 27
(H.B. No. 38)

AN ACT

RELATING TO THE FOOD SAFETY MODERNIZATION ACT; AMENDING SECTION 22-113, IDAHO CODE, TO REVISE A DATE BY WHICH CERTAIN CONTRACTS AND CONTRACTING AUTHORITY SHALL TRANSITION TO THE IDAHO STATE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Section 22-113, Idaho Code, be, and the same is hereby amended to read as follows:

22-113. UNITED STATES FOOD AND DRUG ADMINISTRATION FOOD SAFETY MODERNIZATION ACT -- REGULATIONS FOR HUMAN FOOD PROCESSING. The Idaho legislature hereby directs that the Idaho state department of agriculture shall be the contracting agency for inspections in the state of Idaho that are contracted by the United States food and drug administration for the inspection of nonretail activities subject to registration under section 415 of the federal food, drug and cosmetic act. Any existing contracts and contracting authority shall transition to the Idaho state department of agriculture by September 29, ~~2019~~ 2021. Processors conducting nonretail activities and not subject to registration under section 415 of the federal food, drug and cosmetic act shall not be subject to regulation by the Idaho state department of agriculture pursuant to the provisions of this section. Prior to the Idaho state department of agriculture engaging in the regulation of any activities pursuant to the provisions of this section, the Idaho state department of agriculture, in consultation and cooperation with the department of health and welfare, shall conduct negotiated rulemaking to provide for the implementation of such regulation.

Approved February 19, 2019

CHAPTER 28
(H.B. No. 31)

AN ACT

RELATING TO DIVORCE; AMENDING SECTION 32-716, IDAHO CODE, TO REVISE A PROVISION REGARDING WHEN A FINAL DECREE SHALL BE ENTERED.

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

SECTION 1. That Section 32-716, Idaho Code, be, and the same is hereby amended to read as follows:

32-716. RECONCILIATION PROCEEDINGS. No hearing on the merits upon grounds for divorce shall be held in any action for divorce, and no final decree of a court of competent jurisdiction shall be entered in any such case, except as hereinafter provided, until at least twenty-one (~~20~~) days after

the commencement of the action and service of process. During such period of twenty-one (201) days, or at any time subsequent and prior to entry of final decree therein, the court, upon application of one (1) of the parties, may require a conference of the parties with a person or persons of his choosing, or persons selected by the court, in order to determine whether or not a reconciliation between the parties is practicable; provided, however, that nothing herein shall prevent the court from making such interim orders as may be just and equitable; provided, further, that nothing herein shall prevent the court from proceeding to try the matter on the merits and enter a final decree of divorce upon the agreement of both parties and with both parties present in person or represented by counsel at such trial.

In any action of divorce where grounds for divorce have been established, if the court finds that attempts at reconciliation are practicable and to the best interest of the family, the court may stay the proceedings for a period not to exceed ninety (90) days where there are minor children in the family.

The reconciliation procedures herein provided shall not be construed as a condonation on the part of either spouse of acts that may constitute grounds for divorce.

Approved February 20, 2019

CHAPTER 29
(H.B. No. 32)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE FOR SUBSTANCE USE DISORDERS SERVICE PROVIDERS AND SUBSTANCE USE DISORDER ASSESSMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

- (a) May be sentenced to jail for a term not to exceed six (6) months;
- (b) May be fined an amount not to exceed one thousand dollars (\$1,000);
- (c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;
- (d) Shall have his driving privileges suspended by the court for a period of thirty (30) days, which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days, during which the defendant may request restricted driving privileges that the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs; and

(e) Unless an exception is granted pursuant to section 18-8002(12), Idaho Code, shall within ten (10) days following the end of the mandatory suspension period have a state-approved ignition interlock system meeting the requirements of section 18-8008, Idaho Code, installed, at his expense, on all motor vehicles operated by him for a period to end one (1) year following the end of the suspension period. A court may determine that an offender is eligible to utilize available funds from the court interlock device and electronic monitoring device fund, as outlined in section 18-8010, Idaho Code, for the installation and operation of an ignition interlock device, based on evidence of financial hardship.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of subsection (1) (a), (b), (c) and (e) of this section; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (c), Idaho Code, for the first time is guilty of a misdemeanor and is subject to:

(a) The provisions of subsection (1) (a), (b), (c) and (e) of this section; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period.

(5) If the person has pled guilty or was found guilty for the second time within ten (10) years of a violation of the provisions of section 18-8004(1) (b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(6) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony and:

(a) Shall be sentenced to the custody of the state board of correction for not to exceed ten (10) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license or permit to the court;

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind, and may have his driving privileges suspended by the court for an additional period not to exceed four (4) years, during which the defendant may request restricted driving privileges that the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period.

(7) Notwithstanding the provisions of subsections (4) (e) and (6) (d) of this section, any person who is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the offender has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that a state-approved ignition interlock system is installed, at his expense, on any motor vehicles operated by the offender for a period to end one (1) year following the end of the suspension period and that the offender has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the offender successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program.

(8) For the purpose of computation of the enhancement period in subsections (4), (6) and (9) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination

of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(9) Notwithstanding the provisions of subsections (4) and (6) of this section, any person who has pled guilty to or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, notwithstanding the form of the judgment(s) or withheld judgment(s) or any substantially conforming foreign criminal felony violation, notwithstanding the form of the judgment(s) or withheld judgment(s), and within fifteen (15) years pleads guilty to or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (6) of this section.

(10) For the purpose of subsections (4), (6) and (9) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(11) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code) and prior to the sentencing date, an alcohol evaluation by ~~an alcohol evaluation facility~~ a substance use disorders service provider approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsection (12) (a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or nonuse of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's first violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse use disorder assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider

the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(12) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (11) of this section, if any.

(13) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(14) In the event that the alcohol evaluation required in subsection (11) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(15) Any person who is disqualified, or whose driving privileges have been suspended, revoked or canceled under the provisions of this chapter, shall not be granted restricted driving privileges to operate a commercial motor vehicle.

(16) As used in this section, "at his expense" includes the cost of obtaining, installing, using and maintaining an ignition interlock system.

CHAPTER 30
(H.B. No. 34)

AN ACT

RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 18-8304, IDAHO CODE, TO REVISE A PROVISION REGARDING APPLICABILITY.

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

SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes: 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder committed in the perpetration of rape); 18-4502 (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503 (second-degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve years of age or the defendant is eighteen years of age); 18-6608 (forcible sexual penetration by use of a foreign object); 18-8602(1) (sex trafficking); and any other offense set forth in section 18-8304, Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen (13) years or an offense that is substantially similar to any of the foregoing offenses under the laws of another jurisdiction or military court or the court of another country.

(2) "Board" means the sexual offender management board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment that involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Foreign conviction" means a conviction under the laws of Canada, Great Britain, Australia or New Zealand, or a conviction under the laws of any foreign country deemed by the U.S. department of state, in its country reports on human rights practices, to have been obtained with sufficient safeguards for fundamental fairness and due process.

(8) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(9) "Jurisdiction" means any of the following: a state, the District of Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, the federal government or a federally recognized Indian tribe.

(10) "Minor" means an individual who has not attained the age of eighteen (18) years.

(11) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another jurisdiction or military court or the court of another country deemed by the U.S. department of state, in its country reports on human rights practices, to have sufficient safeguards for fundamental fairness and due process.

(12) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(13) "Psychosexual evaluation" means an evaluation that specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(14) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(15) "Residence" means the offender's present place of abode.

(16) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(17) "Violent sexual predator" means a person who was designated as a violent sexual predator by the sex offender classification board where such designation has not been removed by judicial action or otherwise.

SECTION 2. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-925 (aggravated sexual battery), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), felony violations of 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious

act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5610 (utilizing a person under eighteen years of age for prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1) (sex trafficking), Idaho Code.

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in paragraph (a) of this subsection and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in paragraph (a) of this subsection and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) The department shall have authority to promulgate rules to implement the provisions of this chapter.

Approved February 20, 2019

CHAPTER 31
(H.B. No. 62)

AN ACT

RELATING TO THE OCCUPANCY TAX; AMENDING SECTION 63-317, IDAHO CODE, TO REVISE PROVISIONS REGARDING OCCUPANCY TAX PROCEDURES AND TO PROVIDE FOR A CERTAIN NOTIFICATION FROM THE COUNTY ASSESSOR; AMENDING SECTION 63-702, IDAHO CODE, TO AUTHORIZE A REDUCTION IN OCCUPANCY TAXES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 63-703, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF AN OCCUPANCY TAX REDUCTION BETWEEN INDIVIDUALS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-704, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AMOUNT OF PROPERTY TAX REDUCTION AND TO PROVIDE FOR AN OCCUPANCY TAX REDUCTION; AMENDING SECTION 63-705, IDAHO CODE, TO PROVIDE FOR AN OCCUPANCY TAX REDUCTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-705A, IDAHO CODE, TO REVISE PROVISIONS REGARDING A SPECIAL PROPERTY TAX REDUCTION FOR DISABLED VETERANS AND TO PROVIDE FOR AN OCCUPANCY TAX REDUCTION; AMENDING SECTION 63-706, IDAHO CODE, TO PROVIDE A TIME BY WHICH A CLAIM FOR AN OCCUPANCY TAX REDUCTION MUST BE FILED; AMENDING SECTION 63-707, IDAHO CODE, TO REVISE PROVISIONS REGARDING A TAX REDUCTION ROLL; AMENDING SECTION 63-709, IDAHO CODE, TO PROVIDE REIMBURSEMENT PROCEDURES FOR THE STATE TAX COMMISSION REGARDING THE OCCUPANCY TAX AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-317, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential, commercial and industrial structures, including new manufactured housing, except additions to existing improvements or manufactured housing, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements or new manufactured housing for that portion of the calendar year in which first occupancy occurs. The occupancy tax does not apply to operating property. Improvements that were exempt as of January 1 of the tax year, but that may be subject to occupancy tax during that tax year, shall not be subject to property tax as otherwise provided in section 63-602Y, Idaho Code. For the purposes of this section, the term "occupied" means:

- (a) Use of the property by any person as a residence including occupancy of improvements or use in storage of vehicles, boats or household goods, provided such use is not solely related to construction or sale of the property; or
- (b) Use of the property for any business or commercial purpose unrelated to the construction and sale of the property; or
- (c) Any possessory use of the property for which the owner received any compensation or consideration.

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

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

(b) Upon completion of the appraisal and entry of the appraised value on the occupancy tax roll, which roll shall be prepared for property subject to the occupancy tax, the county assessor shall:

(i) Notify the owner of the appraised value and their the right to appeal the value provided in the appraisal within twenty-eight (28) days of such notification in the manner provided in section 63-501A, Idaho Code, notwithstanding date limitations found in that section, and further shall notify the owner of their the right to apply for the exemption provided in sections 63-602G and 63-602X, Idaho Code. If the owner applies for and meets the requirements for such exemption within thirty (30) days of the notification by the county assessor, the exemption shall be extended to the newly constructed and occupied residential structures in compliance with section 63-602G, Idaho Code, notwithstanding limitations requiring occupancy as of April 15 of the tax year; and

(ii) Notify the owner of the right to apply for a reduction of property taxes or occupancy taxes pursuant to chapter 7, title 63, Idaho Code. If the owner applies for and meets the requirements for a tax reduction within thirty (30) days of the notification by the county assessor, the tax reduction roll shall be amended by the county assessor by adding claims submitted pursuant to this section, provided such claims are submitted to the assessor no later than September 1. For claims submitted after that date, the county assessor shall prepare a supplemental tax reduction roll. The supplemental tax reduction roll shall be submitted to the state tax commission along with the claims no later than the first Monday in March of the following tax year. The county assessor and the state tax commission shall calculate a reduction of occupancy taxes and reimbursement to taxing districts in the same manner as if a claim had been submitted on or before April 15 of the tax year.

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

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

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

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

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

SECTION 2. That Section 63-702, Idaho Code, be, and the same is hereby amended to read as follows:

63-702. REDUCTION IN PROPERTY TAXES OR OCCUPANCY TAXES -- CLAIM IS PERSONAL -- EXCEPTIONS.

(1) ~~(a) The right to file a claim under the provisions of sections 63-701 through 63-710, Idaho Code, shall be personal to the claimant and shall not survive his death except as otherwise provided in this section.~~ A property tax reduction shall be allowed pursuant to the provisions of sections 63-701 and through 63-710, Idaho Code, if the owner occupies the residential improvements after January 1 but before April 15, and if no other property tax reductions or occupancy tax reductions under this section have been claimed by the owner for the same year.

(b) An occupancy tax reduction shall be allowed pursuant to the provisions of sections 63-701 through 63-710, Idaho Code, if the owner occupies the newly constructed residential improvements at any time during the year and has not filed for a property tax reduction or occupancy tax reduction under this section on any other homestead for the same year.

(2) The right to file a claim under the provisions of sections 63-701 through 63-710, Idaho Code, shall be personal to the claimant and shall not survive his death except:

(a) Such right may be exercised on behalf of a living claimant by an agent authorized in writing to so act, by a guardian or other representative acting pursuant to judicial authority or by any person or entity described in section 63-711(3), Idaho Code. If a claimant dies after having filed a timely claim, the amount thereof shall be allowed to his personal representative, if one is appointed, or to surviving heirs or to the trust or other entity owning the property, as appropriate; and

(2b) In the case of property owned by an estate, revocable trust, irrevocable trust, limited partnership, limited liability company or corporation, where the deceased person's widow or widower succeeds to the interest of the deceased person in that entity and occupies the dwelling as required in this chapter, the deceased owner's widow or widower, or any person or entity described in section 63-711(3), Idaho Code, on behalf of that widow or widower:

(ai) May file a claim on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant on January 1 or before April 15 of under subsection (1) of this section in the year in which the claim is filed; or

(bii) The widow or widower shall be deemed the owner of the property in any year after the year of the death of the spouse.

SECTION 3. That Section 63-703, Idaho Code, be, and the same is hereby amended to read as follows:

63-703. PROCEDURE FOR FILING CLAIMS. (1) Any claim filed shall be signed by the claimant or by any person or entity described in section 63-711(3), Idaho Code. By signing such claim, the claimant or other person or entity signing such claim shall attest to the truth of such claim, and shall be subject to the penalties provided by section 18-5401, Idaho Code, for stating as true any material fact known to be false. All claims shall be made on forms prescribed by the state tax commission and shall be in triplicate. One (1) copy of the form shall be provided to the claimant or the person or entity acting on behalf of the claimant, one (1) copy shall be kept for all county purposes, and one (1) copy shall be forwarded to the state tax commission with the property tax reduction roll. Except as provided in section 63-707, Idaho Code, the claim and its documentation shall not be deemed to be public records and may not be used for any commercial purpose; provided however, the state tax commission and the county assessor may

use the contents of such claims and documentation for general statistical analysis and may publish such analysis, or any part of such analysis, as appropriate.

(2) By filing a claim, a claimant does not relinquish any right he or any member of his household may have to apply for a cancellation of property taxes pursuant to section 63-711, Idaho Code. The county commissioners may grant any such claimant, or any member of his household, a cancellation of property taxes, late charges and interest under such section, if a claim has been filed under the provisions of sections 63-701 through 63-710, Idaho Code.

(3) If two (2) or more individuals of a household are able to meet the qualifications of a claimant, they may decide between themselves who may obtain a reduction in property taxes or occupancy taxes under the provisions of sections 63-701 through 63-710, Idaho Code, and shall certify such division in writing to the county assessor in such form as the county assessor shall require, but if they do not decide between themselves, then the reduction shall be divided equally among or between the claimants in the household or shall be divided as determined under section 63-701(7), Idaho Code, whichever is appropriate.

(4) When an "owner" is any person who is the beneficiary of a revocable or irrevocable trust, or is a partner of a limited partnership, or member of a limited liability company, or shareholder of a corporation, if such entity holds title in fee simple or holds a certificate of motor vehicle title, and if said person holds at least a five percent (5%) ownership in such entity, he or she, or any person or entity described in section 63-711(3), Idaho Code, may provide proof of the foregoing as follows:

(a) If the owner of the homestead is a revocable or irrevocable trust, by an affidavit stating:

- (i) That the claimant, or the claimant's spouse, is a beneficiary of the trust; and
- (ii) That the claimant, or the claimant's spouse, is the occupier of the residential property and uses the property as the primary dwelling place of the occupier as of January 1 or before April 15.

The affidavit shall include the attaching of copies of those portions of the trust which set forth the status of the claimant or the claimant's spouse as beneficiary and which contain the signature page or pages of the trust.

(b) If the owner is a limited partnership, limited liability company, or corporation, by an affidavit stating the entity holds title in fee simple or holds a certificate of motor vehicle title, and if said person holds at least a five percent (5%) ownership in such entity. The affidavit shall include the attaching of:

- (i) Proof of the current status of the entity owning the property, including statements from the secretary of state as to such status if appropriate;
- (ii) Copies of any documents, or portions thereof, relating to the entity including, but not limited to, those portions of the articles of organization or operating agreements of the entity indicating the person's membership or ownership in the entity and the membership or ownership percentage held by such person; and
- (iii) Copies of any contracts or other agreements between the entity and the claimant or the claimant's spouse including, but not limited to, any portions thereof that show the right of occupancy of the homestead by the person.

(c) Any other documentation which the county assessor determines would aid the county assessor in carrying out the provisions of this chapter.

SECTION 4. That Section 63-704, Idaho Code, be, and the same is hereby amended to read as follows:

63-704. AMOUNT OF PROPERTY TAX OR OCCUPANCY TAX REDUCTION. (1) Each claimant qualifying for and applying for a reduction in property taxes or occupancy taxes under the provisions of sections 63-701 through 63-710, Idaho Code, shall be allowed a reduction in property taxes on his homestead for the current year only, in the amounts provided by subsection (4) of this section.

(2) All property taxes and occupancy taxes continue to be the responsibility of the individual taxpayer, and all property taxes continue to be perpetual liens against the property against which assessed, and all property. All taxes may be collected and enforced in the usual manner, if the taxpayer does not receive any property tax reduction as provided under sections 63-701 through 63-710, Idaho Code, or if the taxpayer receives less property tax reduction than the whole amount of property taxes or occupancy taxes he is charged with.

(3) The claimant property owner's property tax reduction shall be based upon the current year's assessed value and the current year's levy.

(4) Property tax and occupancy tax reductions qualified under sections 63-701 through 63-710, Idaho Code, shall be allowed as set out in section 2, chapter 59, laws of 1992, and adjusted for cost-of-living fluctuations as provided in section 63-705, Idaho Code.

(5) A claimant who is a veteran with a service-connected disability of one hundred percent (100%) shall also be eligible for a special property tax or occupancy tax reduction, as provided in section 63-705A, Idaho Code.

SECTION 5. That Section 63-705, Idaho Code, be, and the same is hereby amended to read as follows:

63-705. PUBLICATION OF CHANGES IN INCOME LIMITATIONS AND PROPERTY TAX OR OCCUPANCY TAX REDUCTION AMOUNTS. (1) The state tax commission shall publish adjustments to the income limitations, which shall be the greater of: (a) an individual's income as defined in section 63-701, Idaho Code, of not more than twenty-eight thousand dollars (\$28,000) per household for tax year 2006 and each tax year thereafter; or (b) one hundred eighty-five percent (185%) of the federal poverty guidelines for a household of two (2) for tax year 2006 and each tax year thereafter. The lowest limitation shall allow a maximum reduction of one thousand three hundred twenty dollars (\$1,320) in tax year 2006 and thereafter, or actual property taxes or occupancy taxes, as applicable, whichever is less. Each income limitation and reduction amount shall be prorated based on the basic maximum reduction, in practicable increments so that the highest income limitation will provide for a reduction of one hundred fifty dollars (\$150), or actual property taxes, whichever is less.

(2) The tax commission shall publish the adjustments required by this section each and every year the secretary of health and human services announces said cost-of-living modifications, pursuant to 42 U.S.C. 415(i). The adjustments shall be published no later than October 1 of each such year and shall be effective for claims filed in and for the following property tax year.

(3) The publication of adjustments under this section shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

SECTION 6. That Section 63-705A, Idaho Code, be, and the same is hereby amended to read as follows:

63-705A. SPECIAL PROPERTY TAX OR OCCUPANCY TAX REDUCTION FOR DISABLED VETERANS. (1) For tax year 2019 and thereafter, regardless of any reduction received under section 63-705, Idaho Code, a veteran with a service-connected disability of one hundred percent (100%) shall receive a special

reduction in property taxes or occupancy taxes levied on his homestead, as defined in section 63-701, Idaho Code. The special property tax reduction shall be in the amount of one thousand three hundred twenty dollars (\$1,320) or for the amount of the veteran's actual property taxes or occupancy taxes, as applicable, whichever is less. If a veteran qualifies for property tax reduction under both this section and section 63-705, Idaho Code, the combined property tax reduction amount may not exceed the actual amount of the veteran's property taxes or occupancy taxes on his homestead.

(2) An applicant for a special property tax or occupancy tax reduction under this section shall comply with all procedural requirements set forth in sections 63-701 through 63-710, Idaho Code, with the exception of any income documentation.

(3) In the event that a qualified veteran applies for the special property tax reduction in this section but then dies, the veteran's surviving spouse is entitled to receive the special property tax reduction in that year and subsequent years, until such time as the surviving spouse remarries, dies, or no longer has property tax levied on the homestead.

SECTION 7. That Section 63-706, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Any claim for occupancy tax reduction to be granted under the provisions of sections 63-701 through 63-710, Idaho Code, shall be governed by the provisions of section 63-317, Idaho Code, but must be filed in the office of the county assessor no later than the fourth Monday in January of the year following the year for which the occupancy tax was levied.

SECTION 8. That Section 63-707, Idaho Code, be, and the same is hereby amended to read as follows:

63-707. PROCEDURE AFTER CLAIM APPROVAL. (1) The county assessor shall prepare a property tax reduction roll, which shall be in addition to the property roll, the subsequent property roll, and missed property rolls, ~~which property.~~ The tax reduction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the property for which a reduction in property taxes or occupancy taxes is claimed, suitably detailed to meet the requirements of the individual county;
- (c) The assessor's best estimate of current market value, and any prorated net taxable value of the eligible portion of the property's current market value for assessment purposes;
- (d) The amount of tax reduction for which the applicant is eligible as determined by the income of the claimant and, if married, the claimant's spouse, pursuant to sections 63-704 and 63-705, Idaho Code; and
- (e) The amount of tax reduction for which a disabled veteran homeowner is eligible, pursuant to section 63-705A, Idaho Code.

(2) Except as provided in section 63-317, Idaho Code, and as soon as possible, but in any event by no later than June 1, the property tax reduction roll shall be certified to the county auditor and to the state tax commission in the manner prescribed by rules promulgated by the state tax commission. The property tax reduction roll shall be accompanied by a copy of the claim forms.

(3) (a) Except as provided in section 63-317, Idaho Code, and aAs soon as possible, but in any event by no later than the fourth Monday of October, the county auditor shall complete the property tax reduction roll by adding the following information:

(i) The current year's levy for the code area in which the property is situated;

(ii) The amount of occupancy tax reduction claimed based on the current year's market value for assessment purposes and the current year's levy;

(iii) The amount of property tax reduction claimed based on the current year's market value for assessment purposes and the current year's levy; and

(iiiv) The current year's market value for assessment purposes.

(b) Except as provided in section 63-317, Idaho Code, and aAs soon as possible, but in any event no later than the fourth Monday of October, the county auditor shall certify the completed property tax reduction roll to the state tax commission in the manner prescribed by rules promulgated by the state tax commission.

(4) The state tax commission shall determine the total number of claims to be allowed in each county, the dollar amount of each claim allowed, and the total dollar amount for all claims for each county. These amounts shall be certified to the county auditor and tax collector by the state tax commission by no later than the third Monday in November.

(5) The state tax commission may audit each and every claim submitted to it and, any other provision of law notwithstanding, may utilize income tax returns filed by the claimant or by the claimant's spouse to determine the income of the claimant or the claimant's spouse.

(6) If it is determined by the state tax commission that a claim is erroneous, the tax commission shall disapprove so much of the claim as necessary in order to conform with statutory standards. The tax commission shall provide the claimant, or the person or entity acting on behalf of the claimant, written notice of the tax commission's intent to disapprove all or a portion of the claim. The claimant, or the person or entity acting on behalf of the claimant, shall have twenty-eight (28) days to make written protest to the tax commission of the intended action. The claimant, or the person or entity acting on behalf of the claimant, may submit additional information and may request an informal hearing with the commission. If the claimant, or the person or entity acting on behalf of the claimant, fails to make written protest within twenty-eight (28) days, the tax commission shall provide written notice of disapproval to the claimant, or the person or entity acting on behalf of the claimant, by the second Monday of October and to the county auditor of the county from which the claim was received. Any claimant, or person or entity acting on behalf of the claimant, whose claim is disapproved in whole or in part by the state tax commission may:

(a) File a claim with the county commissioners for a special cancellation pursuant to section 63-711, Idaho Code;

(b) Appeal such disapproval by the state tax commission to the board of tax appeals or to the district court of the county of residence of the taxpayer within thirty (30) days.

SECTION 9. That Section 63-709, Idaho Code, be, and the same is hereby amended to read as follows:

63-709. REIMBURSEMENT BY STATE TAX COMMISSION. (1) By no later than December 20 of each year, the state tax commission shall pay to the county tax collector of each county one-half (1/2) of the amount due each county as reimbursement for reduction in property taxes as provided in sections 63-701 through 63-710, Idaho Code, as shown on the abstract of property tax reduction roll and claims forms approved by the state tax commission, and shall

pay the second one-half (1/2) of such amount by not later than June 20 of the following year.

(2) The state tax commission may make one (1) lump sum payment by June 20 of the following tax year to the appropriate county tax collector if the reimbursement results from the granting of occupancy tax reduction and the claim was entered on the supplemental roll. Any amount of occupancy tax scheduled to be reimbursed by the state tax commission shall not be subject to late fees, penalties, or interest of any kind.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 8 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2019. Section 9 shall be in full force and effect on and after July 1, 2019.

Approved February 20, 2019

CHAPTER 32
(S.B. No. 1024)

AN ACT

RELATING TO CROP RESIDUE BURNING; AMENDING SECTION 39-114, IDAHO CODE, TO REVISE PROVISIONS REGARDING PAYMENT OF A FEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-114, Idaho Code, be, and the same is hereby amended to read as follows:

39-114. OPEN BURNING OF CROP RESIDUE. (1) The open burning of crop residue to develop physiological conditions conducive to increase crop yields, or to control diseases, insects, pests or weed infestations, shall be an allowable form of open burning, such that it is expressly authorized as referenced in section 52-108, Idaho Code, as long as the open burning is conducted in accordance with the provisions of this section and the rules promulgated pursuant to this chapter.

(2) Crop residue means any vegetative material remaining in the field after harvest or vegetative material produced on designated conservation reserve program (CRP) lands.

(3) The open burning of crop residue shall be conducted in the field where it was generated. A burn may not take place without preapproval from the department. The department shall not approve a burn if it determines that ambient air quality levels:

(a) Are exceeding, or are expected to exceed, ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day, and these levels are projected to continue or recur over at least the next twenty-four (24) hours; or

(b) Have reached, or are forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter pursuant to section 556 of IDAPA 58.01.01, rules for the control of air pollution in Idaho.

The department shall make available to the public, prior to the burn, information regarding the date of the burn, location, acreage and crop type to be burned. If the agricultural community desires to burn more than twenty thousand (20,000) acres annually of bluegrass within the state, that does not include Indian or tribal lands within the reservation boundaries as recognized

by the federal clean air act, then, prior to approving the burning of the additional acres, the department shall complete an air quality review analysis to determine that the ambient air quality levels in this section will be met.

(4) A fee in an amount of two dollars (\$2.00) per acre ~~to be~~ burned shall be paid to the department ~~prior to burning~~. This fee shall not apply to propane flaming, as defined in the rules promulgated pursuant to this chapter. The department shall remit all fees quarterly to the state treasurer, who shall deposit the moneys in the general fund.

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

Approved February 26, 2019

CHAPTER 33
(S.B. No. 1041)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE, TO PROVIDE FOR EMERGENCY ASSESSMENTS, TO PROVIDE FOR MITIGATION BY A DISTRICT DUE TO NONCOMPLIANCE OF A MEMBER AND FOR THE LEVY OF SPECIAL ASSESSMENTS, AND TO REVISE PROVISIONS REGARDING THE APPORTIONMENT OF AMOUNTS TO BE ASSESSED; AND AMENDING SECTION 42-5241, IDAHO CODE, TO PROVIDE CODE REFERENCES, TO PROVIDE A PROCEDURE ASSOCIATED WITH CERTAIN DISTRICT ASSESSMENTS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-5232, Idaho Code, be, and the same is hereby amended to read as follows:

42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be the assessor of the district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment under this chapter.

(2) At a regular meeting of the board between August 1 and November 1 of each year, the board of directors shall determine the amount necessary to be raised for payment of the annual payment on any and all indebtedness of the district for the following year. Money received in payment of such assessments shall be deposited in a separate fund to be known as the debt retirement fund.

(3) The board shall, in addition, determine the assessments necessary to pay, without limitation, the expenses of developing, operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans, or evaluation of proposed contracts. Money received in payment of such assessments shall be deposited in a separate fund to be known as the mitigation expense fund.

(4) The board shall, in addition, determine the assessments necessary to pay maintenance and operation of the district not related to mitigation plans or purposes. These operation and maintenance duties include making the assessment book, giving notice of assessments and making collections thereof, and other duties, programs or projects of the district to the extent such duties, programs or projects are not attributable to mitigation plans or purposes. Money received in payment of such assessments shall be deposited in a separate fund of the district to be known as the operating expense fund.

(5) If, after levying the regular assessments described in this section, the board determines that the money held in such fund is inadequate or prior to the next regular assessment is likely to become inadequate to pay the expenses for which such fund exists, the board may levy an emergency assessment to pay such additional expenses; provided, that the board shall, at least fourteen (14) days prior to the meeting at which the board determines the amount necessary to pay such expenses, mail written notice of the board's intent to levy an emergency assessment to each member of the district at the address on file with the district.

(6) If a mitigation plan has been approved and a district member fails to operate in accordance with the plan, the board may take action to mitigate such member's noncompliance and levy a special assessment against such member equal to one hundred twenty-five percent (125%) of all costs incurred by the district to mitigate such member's noncompliance. If the noncompliance constitutes excess water use, the board may alternatively levy a special assessment equal to one hundred dollars (\$100) per acre-foot of excess water use.

(7) Any ground water user who becomes a member of a district for mitigation purposes shall be subject to no assessment beyond his proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the district's mitigation plans or purposes.

(68) No assessment made pursuant to this chapter shall be a lien against any municipal property.

(79) Except as otherwise provided in this chapter, each member shall pay a proportionate share of the total of all amounts to be assessed for the purposes aforementioned, which share shall be based on (a) the ratio which the quantity of water the water-user member is authorized to appropriate divert under the member's ground water right(s) bears to the total quantity of water authorized for appropriation diversion under the ground water rights of all water-users-in members of the district, or (b) the ratio which the number of acres the water-use member is authorized to irrigate under the member's ground water right bears to the total quantity-of-water number of acres authorized for appropriation irrigation under the ground water rights of all water-users-in members of the district; provided, that the board shall be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the members' respective ground water rights, other attributes of the ground water rights appurtenant to the assessed lands, and/or the benefits the member derives from a mitigation plan or other activity of the district. Any nonirrigator who is a member of a ground water district, or whose ground water rights are appurtenant to property located within a ground water district, and who has adopted and implemented a mitigation plan that has been approved by the director and that is not inconsistent with such a plan approved by the director and adopted and implemented by the ground water district, shall be entitled to an assessment credit for the contribution made by that nonirrigator's mitigation plan towards the district's mitigation obligation as determined by the director.

SECTION 2. That Section 42-5241, Idaho Code, be, and the same is hereby amended to read as follows:

42-5241. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT -- INTEREST AND PENALTIES. (1) District assessments levied pursuant to subsections (2) through (4) of section 42-5232, Idaho Code, shall be billed and collected in one (1) of the following ways:

(1a) On or before the first day of December, the treasurer of the district shall mail an assessment bill to each water user and shall publish a notice for a period of not less than two (2) weeks in a newspaper

published or having general circulation in each of the counties in which any part of the district is situated, which bill and notice shall set forth the date by which assessments must be paid and the times and places at which payment may be made. Assessments collected by the ground water district shall be due and payable on or before December 31 of each year, after which date each unpaid assessment shall be delinquent; shall bear interest at the rate of interest established for money due on judgments until paid; shall entitle the district to take any appropriate action to collect the assessment, including suit and the foreclosure of liens as provided in this chapter; and, in addition, shall be subject to a penalty in the amount of fifteen dollars (\$15.00) per delinquent assessment; or

(2b) The board of directors of any ground water district organized under the laws of this state desiring to provide for the collection of district assessments by the county treasurer instead of the district treasurer may do so by adopting a resolution providing for collection by the county treasurer, and furnishing a copy of the resolution to the county auditor of each county in which any of the district lands are located; provided that the county commissioners of the county or counties must first approve the ground water district resolution by a proper resolution of the board of county ~~commissioner's~~ commissioners adopted by a majority of the county commissioners and made and entered upon the minutes of the board or boards of county commissioners. The board of county ~~commissioner's~~ commissioners' resolution may provide for collection fees and for any additional fee against the ground water district for the cost of transferring records and initiating the collection process. The board of county commissioners of any county, having determined that the collection of ground water district assessments is an undue burden upon the county and shall no longer be provided, shall notify the board of directors of the ground water district by December 1 in the year preceding the year for which the action shall first be effective by providing to the board of directors a certified copy of the majority decision of the board of county commissioners.

If the ground water district board determines to issue assessments through the respective counties, the treasurer of the ground water district first shall prepare a list containing the legal description, the assessor's parcel number, the name and last known address of the owner of record, and the amount of the assessment for each parcel. The sum assessed and charged against each parcel shall be entered by the ground water district as the operation and maintenance assessment of the (name of district) ground water district. On or before the third Tuesday of July of each year, the list shall be certified by the treasurer of the ground water district to the county auditor of the county in which the lands are located, and the county treasurer shall enter the same upon the tax rolls, as provided by law for the entry of taxes, against the land of each of the persons named in the list, together with the amounts thereof; and the same shall be subject to the same interest and penalties in case of delinquency as in the case of property taxes and shall be collected in the same manner as taxes and subject to the same right of redemption, and the lands sold for the collection of delinquency shall be subject to the same right of redemption, as the sale of land for property taxes.

When a ground water district includes lands in more than one (1) county, the treasurer of the ground water district shall prepare separate lists for the county assessor for each county. When a parcel lies partly in one (1) county and partly in another county, only the portion in a county shall be included on the list for that county. If the legal description of any parcel on any such list differs from the legal description as shown by the assessor's records, the assessor shall notify the district treasurer of the discrepancy and the district treasurer shall submit to the county assessor an addendum

changing the description to conform with the assessor's records; provided, that where the discrepancy between the descriptions occurs because a portion of the parcel lies outside the district, no change in description shall be required, and the district assessments shall be effective only as to the portions of any parcel that are within district boundaries.

Assessments shall be due and payable on the date specified in the county's tax notice, shall be collected and accounted for by the county treasurer in the same manner as property taxes, and shall be paid over to the ground water district treasurer together with any penalties or interest collected. The county shall enforce the collection of assessments in the same manner as it enforces the collection of taxes of the county, and failure to pay the assessment shall be subject to the same penalties. The collection of a ground water district's assessments by the county treasurer shall not make the district's obligations respecting any bond, contract, debt, or interest the obligation of the county.

(2) District assessments levied pursuant to subsection (5) or (6) of section 42-5232, Idaho Code, shall be billed and collected in one (1) of the ways as provided in subsection (1) of this section, provided that assessments billed and collected pursuant to subsection (1) (a) of this section may be mailed at any time of the year and shall be due and payable within thirty (30) days after mailing.

Approved February 26, 2019

CHAPTER 34
(H.B. No. 26)

AN ACT

RELATING TO UNDERGROUND STORAGE TANK SYSTEMS; AMENDING CHAPTER 88, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8805A, IDAHO CODE, TO PROVIDE A COMPLIANCE DATE FOR CERTAIN RULES AND TO PROVIDE FOR RETROACTIVE APPLICATION OF SPECIFIED PROVISIONS.

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

SECTION 1. That Chapter 88, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-8805A, Idaho Code, and to read as follows:

39-8805A. COMPLIANCE DATE FOR CERTAIN RULES. (1) Compliance with the additional testing and inspection requirements set forth in 40 CFR 280.10 concerning emergency power generators, 40 CFR 280.35 concerning spill prevention equipment and containment sumps used for interstitial monitoring of piping and overflow prevention equipment, and 40 CFR 280.40 concerning release detection, as adopted by Idaho and incorporated by reference in IDAPA 58.01.07.004, shall be required only on and after October 13, 2021, notwithstanding any prior date set forth in said regulations or rule.

(2) The provisions of subsection (1) of this section shall be retroactive to the effective date of IDAPA 58.01.07.004, to wit March 24, 2017.

Approved February 26, 2019

CHAPTER 35
(H.B. No. 43)

AN ACT

RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-850, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 19-851, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 19-862A, IDAHO CODE, TO REMOVE OUTDATED PROVISIONS, TO REVISE THE DATE FOR SUBMISSION OF A COMPLIANCE PROPOSAL, TO REVISE TERMINOLOGY, TO PROVIDE FOR COMPLIANCE PROPOSALS, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-850, Idaho Code, be, and the same is hereby amended to read as follows:

19-850. POWERS AND DUTIES OF THE STATE PUBLIC DEFENSE COMMISSION. (1) The state public defense commission shall:

(a) Promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, establishing the following:

(i) Training and continuing legal education requirements for defending attorneys, which shall promote competency and consistency in case types including, but not limited to, criminal, juvenile, capital, abuse and neglect, post-conviction, civil commitment and criminal contempt;

(ii) Uniform data reporting requirements and model forms for the annual reports submitted pursuant to section 19-864, Idaho Code, which shall include, but not be limited to, caseload, workload and expenditures;

(iii) Model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services, which shall include, but not be limited to, compliance with indigent defense standards;

(iv) Procedures and forms by which counties may apply to the commission, pursuant to section 19-862A, Idaho Code, for funds to be used to bring their delivery of indigent defense services into compliance with applicable indigent defense standards;

(v) Procedures for administrative review and fair hearings in accordance with the Idaho administrative procedure act, which shall include, but not be limited to, providing for a neutral hearing officer in such hearings;

(vi) Procedures for the oversight, implementation, enforcement and modification of indigent defense standards so that the right to counsel of indigent persons, as provided in section 19-852, Idaho Code, is constitutionally delivered to all indigent persons in this state; and

(vii) Standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, the following principles:

1. The delivery of indigent defense services should be independent of political and judicial influence, though the judiciary is encouraged to contribute information and advice concerning the delivery of indigent defense services.

2. Defending attorneys should have sufficient time and private physical space so that attorney-client confidentiality is safeguarded during meetings with clients.

3. Defending attorneys' workloads should permit effective representation.
4. Economic disincentives or incentives that impair defending attorneys' ability to provide effective representation should be avoided.
5. Defending attorneys' abilities, training and experience should match the nature and complexity of the cases in which they provide services including, but not limited to, cases involving complex felonies, juveniles and child protection.
6. The defending attorney assigned to a particular case should, to the extent reasonably practicable, continuously oversee the representation of that case and personally appear at every substantive court hearing.
7. There should be reasonable equity between defending attorneys and prosecuting attorneys with respect to resources, staff and facilities.
8. Defending attorneys should obtain continuing legal education relevant to their indigent defense cases.
9. Defending attorneys should be regularly reviewed and supervised for compliance with indigent defense standards and, if applicable, compliance with indigent defense standards as set forth in contractual provisions.
10. Defending attorneys should identify and resolve conflicts of interest in conformance with the Idaho rules of professional conduct and other applicable constitutional standards.

Violation of or noncompliance with the principles listed in this subparagraph does not constitute ineffective assistance of counsel under the constitution of the United States or the state of Idaho and does not otherwise constitute grounds for post-conviction relief.

- (b) On or before January 20, 2015, and by January 20 of each year thereafter as deemed necessary by the commission, make recommendations to the Idaho legislature for legislation on public defense system issues including, but not limited to:
 - (i) Enforcement mechanisms; and
 - (ii) Funding issues including, but not limited to, formulas for the calculation of local shares and state indigent defense grants financial assistance.
- (c) Review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense grants financial assistance.
- (d) Notwithstanding the provisions of paragraph (a)(iv) of this subsection, establish temporary procedures and model forms by which counties may apply to the commission for state indigent defense grants financial assistance pursuant to section 19-862A, Idaho Code, to be utilized until rules promulgated pursuant to paragraph (a)(iv) of this subsection are in full force and effect. Such temporary procedures shall not be subject to administrative or judicial review.
- (e) Hold at least one (1) meeting in each calendar quarter.
 - (2) The state public defense commission may:
 - (a) Hire an executive director, who shall be responsible for the performance of the regular administrative functions of the commission and other duties as the commission may direct. The executive director shall be a nonclassified state employee and shall be compensated as determined by the commission.
 - (b) Employ persons in addition to the executive director in other positions or capacities as it deems necessary to the proper conduct of commission business and to the fulfillment of the commission's

responsibilities. The employees of the commission other than the executive director shall be classified employees and shall receive as compensation an annual salary payable on regular pay periods, the amount of which shall be determined by the commission.

(c) Provide an office, office equipment and facilities as may be reasonably necessary for the proper performance of its duties or the duties of the executive director and other personnel.

(d) Provide training and continuing legal education for indigent defense providers and defending attorneys in order to assist them in satisfying requirements promulgated pursuant to subsection (1) (a) (i) of this section, and use moneys received from a grant or trust or otherwise received and appropriated to provide such training and continuing legal education.

(e) Establish procedures by which indigent defense providers or a county, through its board of county commissioners, may apply to the commission for funds to be used for extraordinary litigation costs including, but not limited to, expert witnesses, evidence testing and investigation, but not including expenses associated with capital crimes.

(f) Hire private counsel to represent the commission in hearings held in accordance with the Idaho administrative procedure act and the rules promulgated pursuant to subsection (1) (a) (v) of this section.

SECTION 2. That Section 19-851, Idaho Code, be, and the same is hereby amended to read as follows:

19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this act, the term:

(1) "Commission" means the state public defense commission as created pursuant to section 19-849, Idaho Code;

(2) "Defending attorney" means any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense;

(3) "Detain" means to have in custody or otherwise deprive of freedom of action;

(4) "Expenses," when used with reference to representation under this act, includes the expenses of investigation, other preparation and trial;

(5) "Indigent defense provider" means any agency, entity, organization or person selected by a board of county commissioners in accordance with section 19-859, Idaho Code, or a designee of the commission if the commission's actions to remedy specific deficiencies pursuant to section 19-862A(11) (b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense;

(6) "Indigent defense standard" means any rule promulgated by the commission pursuant to section 19-850(1) (a), Idaho Code;

(7) "Indigent person" means a person who, at the time his need is determined pursuant to section 19-854, Idaho Code, is unable to provide for the full payment of an attorney and all other necessary expenses of representation;

(8) "Local share" means the benchmark figure calculated by the commission to determine the minimum amount of county funding that shall be maintained by a county and to determine the award amount of state indigent defense grants financial assistance for which a county may be eligible pursuant to section 19-862A, Idaho Code. For any given county fiscal year, a county's local share shall be the median of the annual amount in county funds expended by that county for indigent defense during each of the first three (3) of the preceding five (5) county fiscal years, as certified by the county

clerk. In calculating this amount, county indigent defense expenditures shall not include:

- (a) Amounts received from the public defense commission; and
- (b) Amounts expended for capital cases by those counties participating in the capital crimes defense program in excess of premiums and deductibles required by guidelines approved by the Idaho capital crimes defense fund board of directors;
- (9) "Serious crime" means any offense, the penalty for which includes the possibility of confinement, incarceration, imprisonment or detention in a correctional facility, regardless of whether actually imposed;
- (10) "State indigent defense grant financial assistance" means the state funding a county may be awarded pursuant to section 19-862A, Idaho Code.

SECTION 3. That Section 19-862A, Idaho Code, be, and the same is hereby amended to read as follows:

19-862A. COMPLIANCE -- INDIGENT DEFENSE GRANTS FINANCIAL ASSISTANCE. (1) All counties, indigent defense providers and defending attorneys shall cooperate and participate with the commission in the review of their indigent defense services.

(2) ~~On or before August 1, 2016, and b~~By May 15 of each year thereafter, each county may submit to the commission an application a compliance proposal, which shall be an essential requirement in order to be considered for a state indigent defense grant that financial assistance. The compliance proposal shall include a plan that specifically addresses how indigent defense standards shall be met and, if applicable under subsection (11) (a) of this section, how any deficiencies previously identified by the commission will be cured in the upcoming county fiscal year. The application proposal shall also include a cost analysis that shall specifically identify the amount of funding in excess of the applicable local share, if any, necessary to allow the county to successfully execute its plan. In the event the commission has not yet promulgated any indigent defense standards, or the commission determines that the county can successfully execute its plan without exhausting the entirety of the grant financial assistance for which it may be eligible, an application a proposal submitted pursuant to this section may request funding to be used for other improvements to its delivery of indigent defense services. Such other improvements may include, but are not limited to, funding for investigation costs, witness expenses and other extraordinary litigation costs.

(3) The amount of a state indigent defense grant financial assistance shall not exceed fifteen percent (15%) of the county's local share for said county fiscal year or twenty-five thousand dollars (\$25,000), whichever is greater. If a county elects to join with the board of county commissioners of one (1) or more other counties within the same judicial district to establish and maintain a joint office of public defender pursuant to section 19-859(2), Idaho Code, each participating county shall be eligible for an additional twenty-five thousand dollars (\$25,000) per year. The maximum amount of a state indigent defense grant financial assistance shall remain in effect until July 1, 2019, unless otherwise addressed by the legislature prior to that date.

(4) The commission shall ~~approve an application~~ accept a compliance proposal submitted under subsection (2) of this section, in an amount deemed appropriate by the commission, if the ~~application proposal~~:

- (a) Includes a plan that is necessary to meet or improve upon indigent defense standards; and
- (b) Demonstrates that the amount of the requested state indigent defense grant financial assistance is necessary to meet or improve upon indigent defense standards.

(5) The commission shall ~~approve~~ accept or ~~disapprove~~ ~~the application~~ ~~reject a compliance proposal~~ submitted under subsection (2) of this section within sixty (60) days of the submission of the ~~application~~ compliance proposal. If the commission ~~disapproves~~ rejects the ~~application~~ proposal, the county shall consult with the commission and submit a revised ~~application~~ proposal within thirty (30) days of the mailing date of the official notification of the commission's ~~disapproval~~ rejection. If after two (2) revisions a resolution is not reached, any dispute shall be resolved in accordance with the Idaho administrative procedure act and rules promulgated by the commission pursuant to section 19-850(1) (a) (v), Idaho Code.

(6) On October 1, 2016, or as soon thereafter as is practicable, and on October 1 of each year thereafter, or as soon thereafter as is practicable, the commission shall distribute the approved state indigent defense ~~grant~~ financial assistance to a county if:

(a) The most recent annual report required by section 19-864, Idaho Code, has been filed, to the satisfaction of the commission;

(b) The county has filed, to the satisfaction of the commission, its most recent ~~application~~ proposal for a state indigent defense ~~grant~~ financial assistance required by subsection (2) of this section; and

(c) The county has cured, to the satisfaction of the commission, any material breach of the terms of a previously approved state indigent defense ~~grant~~ financial assistance.

(7) On or before September 1, 2016, and by September 1 of each year thereafter, the commission shall submit a report with its annual budget request to the office of the administrator of the division of financial management and the legislative services office requesting the appropriation of funds necessary to provide state indigent defense ~~grants~~ financial assistance to counties as approved by the commission. The information used to create this report shall be made available to the administrator of the division of financial management and the legislative services office.

(8) A county may be required to provide indigent defense funds in excess of its local share in the event the cost of successfully executing its plan submitted pursuant to subsection (2) of this section exceeds the sum of its local share and the maximum state indigent defense ~~grant~~ financial assistance for which it may be eligible in a given county fiscal year.

(9) By March 31 of each year, all counties shall be in compliance with indigent defense standards that were in full force and effect as of May 1 of the prior year.

(10) Each ~~application~~ proposal submitted pursuant to subsection (2) of this section after March 31, 2017, shall contain an attestation stating whether the county has complied with indigent defense standards as required by subsection (9) of this section and, if not, a specific explanation for its failure to do so.

(11) In the event the commission determines that any county has failed to materially comply with indigent defense standards, the commission shall:

(a) Require the county's upcoming state indigent defense ~~grant~~ ~~application~~ compliance proposal to specifically address how the noncompliance will be cured in the upcoming county fiscal year as provided in subsection (2) of this section; or

(b) If any county has willfully and materially failed to comply with indigent defense standards, notify the county in writing of its determination and intent to remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards. Within thirty (30) days of the date of said notice, the commission and the county or their designees shall attempt to meet at least once to resolve the issues of the noncompliance. If the commission and the county are unable to resolve the matter through this meeting process, the commission and county shall mutually set a date for mediation within forty-five (45) days, with the cost of mediation

to be paid equally by the parties. If after mediation the commission and the county are unable to come to a resolution, the commission shall provide written notice to the county of its decision to remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards. This decision is subject to administrative review as provided in subsection (13) of this section. If the county does not timely request administrative review or if the administrative review process affirms the commission's determination, the commission shall remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards.

(12) If the commission acts to remedy specific deficiencies as provided in subsection (11) (b) of this section, the county shall pay to the commission, notwithstanding the county's applicable local share, the amount incurred by the commission in remedying specific deficiencies as billed by the commission on a semiannual basis coinciding with the county fiscal year. Such amount shall be paid to the commission within sixty (60) days of the date of the billing. If the county fails to provide the commission with the funds billed pursuant to this subsection within sixty (60) days of the date of the commission's billing, the state treasurer shall immediately intercept any payments from sales tax moneys that would be distributed to the county pursuant to section 63-3638, Idaho Code, and apply the intercepted payments to reimburse the commission for the costs incurred in remedying specific deficiencies as billed pursuant to this subsection. The foregoing intercept and transfer provisions shall operate by force of law and no consent thereto is required of the county in order to be enforceable. The commission and the state have no obligation to the county or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(13) A county aggrieved by a decision made by the commission pursuant to subsection (11) (b) of this section shall be afforded reasonable notice and opportunity for a fair hearing in accordance with the Idaho administrative procedure act and rules promulgated by the commission pursuant to section 19-850(1) (a) (v), Idaho Code.

(14) If the commission's actions to remedy specific deficiencies, pursuant to subsection (11) (b) of this section, involve providing indigent defense services on behalf of a county, the county may submit ~~an application~~ a compliance proposal for a state indigent defense ~~grant~~ financial assistance in accordance with subsection (2) of this section and request to resume providing indigent defense services. The commission may ~~approve~~ accept the ~~application~~ proposal and permit the county to resume providing indigent defense services in the event the county has demonstrated that it has cured or will cure any material noncompliance with indigent defense standards to the satisfaction of the commission.

(15) Failure to comply with the standards promulgated pursuant to section 19-850(1) (a), Idaho Code, or the terms of a state indigent defense ~~grant~~ financial assistance does not constitute ineffective assistance of counsel under the constitutions of the United States or the state of Idaho.

Approved February 26, 2019

CHAPTER 36
(H.B. No. 44)

AN ACT

RELATING TO THE FOREST PRACTICES ACT ADMINISTRATION; AMENDING SECTION 38-134, IDAHO CODE, TO REVISE ANNUAL ASSESSMENT PROVISIONS REGARDING PRIVATE OWNERS OF CERTAIN FOREST LANDS.

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

SECTION 1. That Section 38-134, Idaho Code, be, and the same is hereby amended to read as follows:

38-134. FOREST PRACTICES ACT ADMINISTRATION -- FUNDING. The director of the department of lands is charged in section 38-1305, Idaho Code, to administer and enforce the forest practices act on all private forest lands within the state. Funding for this activity shall come from an annual budget request from the general fund and from an annual assessment to be paid by every private owner of forest land in the state. The assessment for private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer shall be equal to the per acre cost multiplied by twenty-five (25). For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the assessment shall be determined by the state board of land commissioners not to exceed ~~ten~~ twenty cents (±20¢) an acre per year. The assessment shall be collected in the same fashion and at the same time as the forest protection assessment described in section 38-111, Idaho Code.

Approved February 26, 2019

CHAPTER 37
(S.B. No. 1039)

AN ACT

RELATING TO THE IDAHO WOLF DEPREDATION CONTROL BOARD; REPEALING SECTION 22-5307, IDAHO CODE, RELATING TO A SUNSET DATE; AMENDING SECTION 25-131, IDAHO CODE, TO REMOVE A DATE RANGE REGARDING CERTAIN ASSESSMENTS; AMENDING SECTION 25-1145, IDAHO CODE, TO REMOVE A DATE RANGE REGARDING CERTAIN ASSESSMENTS; AND AMENDING SECTION 36-125, IDAHO CODE, TO REMOVE A DATE RANGE REGARDING THE FISH AND GAME COMMISSION'S COMPLIANCE WITH SPECIFIED PROVISIONS.

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

SECTION 1. That Section 22-5307, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed twelve cents (12¢) per pound on all wool, in the grease basis, sold through commercial channels, and ~~from the effective date of this act through June 30, 2020,~~ two cents (2¢) of the assessment shall be con-

sidered a wolf control assessment pursuant to section 22-5306, Idaho Code. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the board from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the board within the district or districts

specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

(10) The right is reserved to the state of Idaho to audit the funds of the board at any time.

SECTION 3. That Section 25-1145, Idaho Code, be, and the same is hereby amended to read as follows:

25-1145. RENEWAL OF BRANDS. (1) On July 1, 2011, and at the end of each recording period of an original application pursuant to section 25-1144, Idaho Code, and at the end of each successive period thereafter on the first day of July, the recording of every brand in the office of the state brand inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be not more than one hundred twenty-five dollars (\$125), ~~and from the effective date of this act through June 30, 2020,~~ twenty-five dollars (\$25.00) of which shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code, and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents (\$1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 4. That Section 36-125, Idaho Code, be, and the same is hereby amended to read as follows:

36-125. FIXING ASSESSMENT AND FEES FOR WILDLIFE -- WOLF CONTROL FUND. ~~From the effective date of this act through June 30, 2020,~~ ~~t~~The fish and game commission shall comply with the provisions of section 22-5306, Idaho Code, in providing the wolf depredation control board with direction for use of fish and game funds transferred to the fish and game fund transfer subaccount of the wolf control fund made pursuant to the provisions of section 22-5306, Idaho Code.

Approved February 27, 2019

CHAPTER 38
(S.B. No. 1030)

AN ACT

RELATING TO SCHOOL BOARD TRUSTEES; AMENDING SECTION 33-506, IDAHO CODE, TO REVISE THE DATE OF THE MEETING AT WHICH A BOARD OF SCHOOL DISTRICT TRUSTEES SHALL PERFORM CERTAIN ORGANIZATIONAL ACTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-506, Idaho Code, be, and the same is hereby amended to read as follows:

33-506. ORGANIZATION AND GOVERNMENT OF BOARD OF TRUSTEES. (1) Each board of school district trustees shall organize at its first regular meeting ~~after the~~ in January 1 ~~directly following an election~~ and elect a chairman, a ~~vice-chairman~~ vice chairman, a clerk and a treasurer. The clerk and the treasurer may be members of the board of trustees; or, in the discretion of the board, either or both may be selected from among competent and responsible persons outside the membership of the board. The board in its discretion may allow compensation for the clerk, and for the treasurer, if other than the county treasurer.

(2) Each member of the board not otherwise compensated by public moneys shall be compensated for actual expenses incurred for travel to, from, and attending meetings of the board. Such compensation shall be paid from the district school funds.

(3) It shall be the duty of each member of the board of trustees to attend all meetings, both regular and special; and the board shall have the following powers and duties:

- (a) To make ~~by-laws~~ bylaws, rules and regulations for its government and that of the district, consistent with the laws of the state of Idaho and the rules and regulations of the state board of education;
- (b) To call special meetings or elections for such purpose as may be necessary for the proper conduct and management of the school or schools of the district;
- (c) To employ an attorney or attorneys when deemed for the best interests of the district, or for the purpose of defending the district against any suit or for bringing action deemed necessary to be commenced by the board.

Approved March 1, 2019

CHAPTER 39
(S.B. No. 1077)

AN ACT

RELATING TO THE APPROPRIATION TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 133, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Board of Tax Appeals \$9,900 from the General

Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019.

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

Approved March 4, 2019

CHAPTER 40
(H.B. No. 4)

AN ACT

RELATING TO OCCUPATIONAL THERAPY LICENSURE; AMENDING SECTION 54-3708, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; REPEALING SECTION 54-3711, IDAHO CODE, RELATING TO RENEWAL AND REINSTATEMENT OF LICENSURE; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3711, IDAHO CODE, TO PROVIDE FOR RENEWAL AND REINSTATEMENT OF LICENSURE; AMENDING SECTION 54-3715, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-3717, IDAHO CODE, TO REVISE POWERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-3708, Idaho Code, be, and the same is hereby amended to read as follows:

54-3708. EXAMINATION FOR LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS. (1) Each applicant for licensure shall be examined by written examination to test the person's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and such other subjects as the licensure board may require in rule to determine the applicant's fitness to practice. The written examination shall be the examination established and conducted by the national board for certification in occupational therapy and the passing score shall be the passing score established by the national board for certification in occupational therapy or its successor organization as established in rule.

~~(2) An applicant for licensure by examination who fails to pass the examination after two (2) attempts must submit a new application as set out in this chapter.~~

~~(3) An application upon which the applicant takes no further action will be held for no longer than one (1) year.~~

SECTION 2. That Section 54-3711, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3711, Idaho Code, and to read as follows:

54-3711. RENEWAL AND REINSTATEMENT OF LICENSE. (1) All licenses issued under the provisions of this chapter shall be for a term of one (1) year and shall expire on the birthday of the licensee unless renewed in the manner prescribed by rule. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(2) The board may issue an inactive license to a licensee pursuant to rules adopted by the board that may specify the terms, procedures, and fees

necessary to maintain an inactive license. The holder of an inactive license shall not engage in any practice requiring a license under this chapter. An occupational therapist or occupational therapy assistant wishing to convert an inactive license to an active license must account to the board for that period of time in which the license was inactive and must fulfill requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination. The board may consider practice in another jurisdiction in determining competency.

SECTION 4. That Section 54-3715, Idaho Code, be, and the same is hereby amended to read as follows:

54-3715. SUPERVISION. Within the scope of occupational therapy practice, supervision is aimed at ensuring the safe and effective delivery of occupational therapy services and the fostering of professional competence and development. Practices and procedures governing the supervision of occupational therapy assistants, a limited permit holder and an aide in the delivery of occupational therapy services shall be established in rule and be adopted by the board. ~~Practices and procedures shall include, but not be limited to, delivery of occupational therapy services, facilitation of growth and competence, frequency, methods and content of supervision, a plan of supervision and required documentation of compliance with the plan.~~

SECTION 5. That Section 54-3717, Idaho Code, be, and the same is hereby amended to read as follows:

54-3717. OCCUPATIONAL THERAPY LICENSURE BOARD OF IDAHO -- POWERS AND DUTIES. (1) The licensure board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which that are alleged to violate the provisions of this chapter.

(2) The licensure board shall adopt rules and regulations, pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, regulations relating to professional licensure and to the establishment of ethical standards of practice, disciplinary proceedings, license suspension proceedings, or license revocation proceedings for persons holding a license to practice occupational therapy in this state.

(3) The licensure board shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Authorize, by written agreement, the bureau of occupational licenses to act as its agents in its interests as set out in the written agreement.

(5) Communicate disciplinary actions to relevant state and federal authorities, the national board for certification in occupational therapy (NBCOT), the American occupational therapy association (AOTA) and to other state occupational licensing authorities.

(6) Adopt rules requiring continuing education for the renewal of a license.

Approved March 7, 2019

CHAPTER 41
(H.B. No. 7)

AN ACT

RELATING TO NURSING HOME ADMINISTRATORS; AMENDING SECTION 54-1605, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AGE REQUIREMENT FOR LICENSURE; AND AMENDING SECTION 54-1610, IDAHO CODE, TO PROVIDE A TIME LIMIT FOR ADMINISTRATOR-IN-TRAINING PROGRAMS.

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

SECTION 1. That Section 54-1605, Idaho Code, be, and the same is hereby amended to read as follows:

54-1605. QUALIFICATIONS FOR EXAMINATION FOR LICENSE. (1) The board shall admit to examination for licensure as a nursing home administrator any candidate who pays a fee as determined by the board, submits evidence of good moral character and suitability prescribed by the board, and is at least ~~twenty-one~~ eighteen (218) years old except that no applicant for license as a nursing home administrator shall be admitted to such licensing examination nor shall such applicant be entitled to or be granted a license as a nursing home administrator unless such applicant shall submit written evidence, on forms provided for such purpose by the board, that he has successfully completed a course of study for a baccalaureate degree and has been awarded such degree from an accredited institution of higher learning or its equivalent as provided in subsection (3) of this section.

(2) Additionally, the applicant shall have completed an administrator-in-training program as described in section 54-1610, Idaho Code.

(3) A candidate who applies for examination under and pursuant to subsection (1) of this section, in lieu of the educational requirements provided for therein, may submit evidence satisfactory to the board that such applicant has obtained two (2) years of satisfactory practical experience in management in a health care facility for each year of required post-high school education.

SECTION 2. That Section 54-1610, Idaho Code, be, and the same is hereby amended to read as follows:

54-1610. ADMINISTRATORS-IN-TRAINING -- EXAMINATION AFTER ONE THOUSAND HOURS -- REPORTS -- EXCEPTIONS. (1) Every applicant for a nursing home administrator license who shall have otherwise qualified under the provisions of section 54-1605, Idaho Code, except as provided for in this section, shall serve for one thousand (1,000) hours under the direct supervision of a duly licensed nursing home administrator in accordance with the rules of the board. At the expiration of the one thousand (1,000) hour training period, the applicant shall be eligible to take the examination. An administrator-in-training program shall not exceed a period of two (2) years, except as approved by the board for good cause.

(2) The nursing home administrator-in-training shall submit reports on forms provided therefor by the board.

(3) This section shall not apply to any individual who has successfully completed a course of study for a master's degree in health administration related to long-term care, or who has successfully completed a course of study for a master's degree in health administration and has one (1) year management experience in long-term care and who has been awarded such degree from an accredited institution of higher learning.

(4) Every nursing home administrator-in-training shall register the fact of such training with the board in accordance with the rules and on forms provided by the board.

(5) An applicant may begin the one thousand (1,000) hour training period as a nursing home administrator-in-training prior to completion of a baccalaureate degree.

Approved March 7, 2019

CHAPTER 42
(H.B. No. 8)

AN ACT

RELATING TO MIDWIFERY; AMENDING SECTION 54-5503, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE BOARD OF MIDWIFERY, TO PROVIDE FOR ANNUAL ELECTION OF A CHAIRPERSON, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5505, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE LIST OF FORMULARY DRUGS THAT MIDWIVES ARE AUTHORIZED TO USE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5506, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5507, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5511, IDAHO CODE, TO CLARIFY LANGUAGE; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 54-5503, Idaho Code, be, and the same is hereby amended to read as follows:

54-5503. BOARD OF MIDWIFERY CREATED. (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, a board of midwifery.

(2) The board shall consist of five (5) members appointed by the governor, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be a licensed physician who is board-certified in either obstetrics/gynecology or family medicine, maintains current hospital privileges and has provided primary maternity care for at least twenty (20) births in the twelve (12) months prior to the appointment, and one (1) of whom shall be a member of the public with an interest in the rights of consumers of midwifery services.

(3) ~~One (1) member of the initial board shall be appointed for a one (1) year term of office, one (1) member of the initial board shall be appointed for a two (2) year term of office, one (1) member of the initial board shall be appointed for a three (3) year term of office, one (1) member shall be appointed for a four (4) year term of office and one (1) member of the initial board shall be appointed for a five (5) year term of office. Thereafter, the term of office for each board member shall be five (5) years.~~

(4) In making appointments to the board, the governor's selection shall not be limited to nominations he receives; however, consideration shall be given to recommendations made by the Idaho midwifery council and Idahoans for midwives.

(5) ~~The initial three (3) licensed midwife board members shall have at least three (3) years of experience in the practice of midwifery, shall hold current CPM certification and shall be eligible to become licensed pursuant to this chapter.~~

~~(6) The three (3) board members who are licensed midwives shall be licensed pursuant to this chapter, shall actively practice midwifery in the state of Idaho for the duration of their appointment and shall have been a~~

practicing midwife in the state of Idaho for at least three (3) years immediately preceding their appointment.

(76) In the event of the death, resignation or removal of any board member before the expiration of the term to which he is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(87) Board members shall serve at the pleasure of the governor.

(98) ~~Within thirty (30) days after its appointment, the initial board shall hold a meeting and elect a chairperson.~~ The board shall meet at least annually thereafter and elect a chairperson, and may hold additional meetings at the call of the chairperson or at the written request of any two (2) members of the board. A majority of the board shall constitute a quorum. The vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board.

SECTION 2. That Section 54-5505, Idaho Code, be, and the same is hereby amended to read as follows:

54-5505. RULEMAKING. (1) The rules adopted by the board shall:

(a) Allow a midwife to obtain and administer, during the practice of midwifery, the following:

(i) Oxygen;

(ii) Oxytocin and ~~eytotee~~, misoprostol, and methylergonovine as postpartum antihemorrhagic agents;

(iii) Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree;

(iv) Antibiotics to the mother for group b streptococcus prophylaxis consistent with guidelines of the United States centers for disease control and prevention;

(v) Epinephrine to the mother administered ~~via a metered dose auto-injector~~ for anaphylactic shock;

(vi) Intravenous fluids for stabilization of the woman;

(vii) Rho(d) immune globulin;

(viii) Vitamin K Phytonadione; and

(ix) Eye prophylactics to the baby.

(b) Prohibit the use of other legend drugs, except those of a similar nature and character as determined by the board to be consistent with the practice of midwifery; provided that, at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs is given to the board of pharmacy and the board of medicine and neither board objects to the addition of such drugs to the midwifery formulary;

(c) Define a protocol for use by licensed midwives of drugs approved in paragraphs (a) and (b) of this subsection that shall include methods of obtaining, storing and disposing of such drugs and an indication for use, dosage, route of administration and duration of treatment;

(d) Define a protocol for medical waste disposal; and

(e) Establish scope and practice standards for antepartum, intrapartum, postpartum and newborn care that shall, at a minimum:

(i) Prohibit a licensed midwife from providing care for a client with a history of disorders, diagnoses, conditions or symptoms that include:

1. Placental abnormality;

2. Multiple gestation, except that midwives may provide antepartum care that is supplementary to the medical care of the physician overseeing the pregnancy, so as long as it does not interfere with the physician's recommended schedule of care;

3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

4. Birth under thirty-seven and zero-sevenths (37 0/7) weeks and beyond forty-two and zero-sevenths (42 0/7) weeks gestational age;
5. A history of more than one (1) prior cesarean section, a cesarean section within eighteen (18) months of the estimated due date or any cesarean section that was surgically closed with a classical or vertical uterine incision;
6. Platelet sensitization, hematological or coagulation disorders;
7. A body mass index of forty (40.0) or higher at the time of conception;
8. Prior chemotherapy and/or radiation treatment for a malignancy;
9. Previous pre-eclampsia resulting in premature delivery;
10. Cervical insufficiency;
11. HIV positive status; or
12. Opiate use that places the infant at risk of neonatal abstinence syndrome.

(ii) Prohibit a licensed midwife from providing care for a client with a history of the following disorders, diagnoses, conditions or symptoms unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a licensed health care provider:

1. Diabetes;
2. Thyroid disease;
3. Epilepsy;
4. Hypertension;
5. Cardiac disease;
6. Pulmonary disease;
7. Renal disease;
8. Gastrointestinal disorders;
9. Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;
10. Abnormal cervical cytology;
11. Sleep apnea;
12. Previous bariatric surgery;
13. Hepatitis;
14. History of illegal drug use or excessive prescription drug use; or
15. Rh or other blood group disorders and a physician determines the pregnancy can safely be attended by a midwife.

(iii) Require a licensed midwife to recommend that a client see a physician licensed under chapter 18, title 54, Idaho Code, or under an equivalent provision of the law of a state bordering Idaho and to document and maintain a record as required by section 54-5511, Idaho Code, if such client has a history of disorders, diagnoses, conditions or symptoms that include:

1. Previous complicated pregnancy;
2. Previous cesarean section;
3. Previous pregnancy loss in second or third trimester;
4. Previous spontaneous premature labor;
5. Previous pre-term rupture of membranes;
6. Previous pre-eclampsia;
7. Previous hypertensive disease of pregnancy;
8. Parvo;
9. Toxo;
10. CMV;
11. HSV;

12. Previous maternal/newborn group b streptococcus infection;
 13. A body mass index of at least thirty-five (35.0) but less than forty (40.0) at the time of conception;
 14. Underlying family genetic disorders with potential for transmission; or
 15. Psychosocial situations that may complicate pregnancy.
- (iv) Require that a licensed midwife shall facilitate the immediate transfer to a hospital for emergency care for disorders, diagnoses, conditions or symptoms that include:
1. Maternal fever in labor;
 2. Suggestion of fetal jeopardy such as bleeding or meconium or abnormal fetal heart tones;
 3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first, unless imminent delivery is safer than transfer;
 4. Second stage labor after two (2) hours of initiation of pushing when the mother has had a previous cesarean section;
 5. Current spontaneous premature labor;
 6. Current pre-term premature rupture of membranes;
 7. Current pre-eclampsia;
 8. Current hypertensive disease of pregnancy;
 9. Continuous uncontrolled bleeding;
 10. Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;
 11. Delivery injuries to the bladder or bowel;
 12. Grand mal seizure;
 13. Uncontrolled vomiting;
 14. Coughing or vomiting of blood;
 15. Severe chest pain; or
 16. Sudden onset of shortness of breath and associated labored breathing.

A transfer of care shall be accompanied by the client's medical record, the licensed midwife's assessment of the client's current condition and a description of the care provided by the licensed midwife prior to transfer;

(v) Establish a written plan for the emergency transfer and transport required in subparagraph (iv) of this paragraph and for notifying the hospital to which a client will be transferred in the case of an emergency. If a client is transferred in an emergency, the licensed midwife shall notify the hospital when the transfer is initiated and accompany the client to the hospital if feasible, or communicate by telephone with the hospital if unable to be present personally, and shall provide the client's medical record. The record shall include the client's name, address, list of diagnosed medical conditions, list of prescription or over-the-counter medications regularly taken, history of previous allergic reactions to medications, if feasible the client's current medical condition and description of the care provided by the midwife and next of kin contact information. A midwife who deems it necessary to transfer or terminate care pursuant to this section and any rules promulgated under this section or for any other reason shall transfer or terminate care and shall not be regarded as having abandoned care or wrongfully terminated services. Before nonemergent discontinuing of services, the midwife shall notify the client in writing, provide the client with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of

medical records regardless of whether copying costs have been paid by the client.

(f) Establish and operate a system of peer review for licensed midwives that shall include, but not be limited to, the appropriateness, quality, utilization and the ethical performance of midwifery care.

(2) The rules adopted by the board may not:

(a) Require a licensed midwife to have a nursing degree or diploma;

(b) Except as a condition imposed by disciplinary proceedings by the board, require a licensed midwife to practice midwifery under the supervision of another health care provider;

(c) Except as a condition imposed in disciplinary proceedings by the board, require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;

(d) Limit the location where a licensed midwife may practice midwifery;

(e) Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;

(f) Grant a licensed midwife prescriptive privilege;

(g) Allow a licensed midwife to perform abortions.

SECTION 3. That Section 54-5506, Idaho Code, be, and the same is hereby amended to read as follows:

54-5506. LICENSURE -- PENALTY. (1) The board shall grant a license to any person who submits a completed application, pays the required license fee as established by the board and meets the qualifications set forth in section 54-5507, Idaho Code.

(2) All licenses issued under this chapter shall be for a term of one (1) year and shall expire on the birthday of the licensee unless renewed in the manner prescribed by rule. Except as set forth in this chapter, rules governing procedures and conditions for license renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(3) It is a misdemeanor for any person to assume or use the title or designation "licensed midwife," "L.M." or any other title, designation, words, letters, abbreviations, sign, card or device to indicate to the public that such person is licensed to practice midwifery pursuant to this chapter unless such person is so licensed. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection ~~(3)~~ shall be guilty of a felony.

(4) Except as provided in section 54-5508, Idaho Code, ~~on and after July 1, 2010,~~ it shall be a misdemeanor for any person to engage in the practice of midwifery without a license. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection ~~(4)~~ shall be guilty of a felony.

SECTION 4. That Section 54-5507, Idaho Code, be, and the same is hereby amended to read as follows:

54-5507. QUALIFICATIONS FOR LICENSURE. ~~(1)~~ A person shall be eligible to be licensed as a midwife if the person:

(a₁) Provides proof of current certification as a CPM by NARM or a successor organization;

(b₂) Files a board-approved application for licensure and pays the required fees; and

(e₃) Provides documentation of successful completion of board-approved MEAC accredited courses in pharmacology, the treatment of shock/IV therapy and suturing specific to midwives.

~~(2) For any midwife who has been continuously practicing midwifery in Idaho for at least five (5) years prior to July 1, 2009, the qualifications~~

~~for licensure in subsection (1) (a) of this section may be waived by the board if such midwife provides the following documentation to the board:~~

- ~~(a) Primary attendance at seventy-five (75) births within the past ten (10) years, ten (10) of which occurred in the two (2) years immediately preceding the application for licensure; and~~
- ~~(b) In addition to the completion of the courses listed in subsection (1) (c) of this section, successful completion of board approved courses in CPR and neonatal resuscitation; and~~
- ~~(c) Complete practice data for the two (2) years preceding the application for licensure, on a form provided by the board.~~
- ~~(3) Any midwife who wishes to qualify for the waiver provided in subsection (2) of this section shall apply for licensure and provide the required documentation before July 1, 2010.~~

SECTION 5. That Section 54-5511, Idaho Code, be, and the same is hereby amended to read as follows:

54-5511. DISCLOSURE AND RECORDKEEPING -- LICENSE RENEWAL. (1) Before initiating care, a licensed midwife shall obtain a signed informed consent agreement from each client, acknowledging receipt, at minimum, of the following:

- (a) The licensed midwife's training and experience;
 - (b) Instructions for obtaining a copy of the rules adopted by the board pursuant to this chapter;
 - (c) Instructions for obtaining a copy of the NACPM essential documents and NARM job description;
 - (d) Instructions for filing complaints with the board;
 - (e) Notice of whether or not the licensed midwife has professional liability insurance coverage;
 - (f) A written protocol for emergencies, including hospital transport that is specific to each individual client;
 - (g) A description of the procedures, benefits and risks of home birth, primarily those conditions that may arise during delivery; and
 - (h) Any other information required by board rule.
- (2) All licensed midwives shall maintain a record of all signed informed consent agreements for each client for a minimum of nine (9) years after the last day of care for such client.

(3) Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section 54-5505(1) (e) (ii), Idaho Code, the licensed midwife shall provide written notice to the client that the client shall obtain care from a physician licensed pursuant to chapter 18, title 54, Idaho Code, as a condition to her eligibility to obtain maternity care from the licensed midwife. Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section 54-5505(1) (e) (iii), Idaho Code, or who has had a previous cesarean section, the licensed midwife shall provide written notice to the client that the client is advised to consult with a physician licensed pursuant to chapter 18, title 54, Idaho Code, during her pregnancy. The midwife shall obtain the client's signed acknowledgment of receipt of said notice.

(4) Any licensed midwife submitting an application to renew a license shall compile and submit to the board complete practice data for the ~~twelve (12) months immediately~~ calendar year preceding the date of the application. Such information shall be provided in form and content as prescribed by rule of the board and shall include, but not be limited to:

- (a) The number of clients to whom care has been provided by the licensed midwife;
- (b) The number of deliveries performed by the licensed midwife;
- (c) The apgar scores of the infants delivered by the licensed midwife;
- (d) The number of prenatal transfers;

- (e) The number of transfers during labor, delivery and immediately following birth;
- (f) Any perinatal deaths; and
- (g) Other morbidity statistics as required by the board.

SECTION 6. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2024.

Approved March 7, 2019

CHAPTER 43
(H.B. No. 18)

AN ACT

RELATING TO ADULT PROTECTIVE SERVICES; AMENDING SECTION 39-5301A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5302, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-5303, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-5304, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-5305, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-5306, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5308, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-5309, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 67-5011, IDAHO CODE, TO REVISE PROVISIONS REGARDING SERVICES FOR VULNERABLE ADULTS.

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

SECTION 1. That Section 39-5301A, Idaho Code, be, and the same is hereby amended to read as follows:

39-5301A. DECLARATION OF POLICY. (1) It is the intent of the adult abuse, neglect and exploitation act to authorize the fewest possible restrictions on the exercise of personal freedom and religious beliefs consistent with a vulnerable adult's need for services and to empower vulnerable adults to protect themselves.

(2) The legislature recognizes that vulnerable adults sometimes experience difficulties managing their own affairs or are unable to protect themselves from abuse, neglect or exploitation. Often, vulnerable adults cannot find others who are able or willing to provide assistance.

(3) The commission is directed to investigate allegations of abuse, neglect, self-neglect or exploitation involving a vulnerable adult, to make appropriate referrals to law enforcement, and to arrange for the provision of necessary services. Further, the commission shall honor a vulnerable adult's freedom of choice and right to self-determination. When it becomes necessary for the commission to assist a vulnerable adult, actions shall be tempered by the requirements of due process and must place the fewest possible restrictions on personal freedom. Services provided under this act are also intended to provide assistance to caregiving families experiencing difficulties in maintaining functionally impaired relatives in the household.

(4) In the process of carrying out its adult ~~protection~~ protective services responsibilities, the commission is directed to make effective use of multidisciplinary services available through any and all public agencies, community-based organizations, and informal resources.

SECTION 2. That Section 39-5302, Idaho Code, be, and the same is hereby amended to read as follows:

39-5302. DEFINITIONS. For the purposes of this chapter:

(1) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury.

(2) "Caretaker" means any individual or institution that is responsible by relationship, contract, or court order to provide food, shelter or clothing, or medical or other life-sustaining necessities to a vulnerable adult.

(3) "Commission" means the Idaho commission on aging, established pursuant to chapter 50, title 67, Idaho Code.

~~(4) "Contractor" means an area agency on aging and its duly authorized agents and employees providing adult protection services pursuant to a contract with the commission in accordance with section 67-5011, Idaho Code. The commission designates area agencies on aging pursuant to 42 U.S.C.A. 3025(a)(2)(A) and may establish by rule when duties or obligations under this chapter may be fulfilled by an area agency on aging.~~

~~(5) "Department" means the Idaho department of health and welfare.~~

(65) "Emergency" means an exigent circumstance in which a vulnerable adult's health and safety is placed in imminent danger. Imminent danger is when death or severe bodily injury could reasonably be expected to occur without intervention.

(76) "Exploitation" means an action ~~which~~ that may include, but is not limited to, the unjust or improper use of a vulnerable adult's financial power of attorney, funds, property, or resources by another person for profit or advantage.

(87) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult, or the failure of a vulnerable adult to provide those services for himself.

(8) "Provider" means an area agency on aging or a person or an entity capable of providing adult protective services, including duly authorized agents and employees.

(9) "Supportive services" means noninvestigatory remedial, social, legal, health, educational, mental health and referral services provided to a vulnerable adult.

(10) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment ~~which~~ that affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

Nothing in this chapter shall be construed to mean a person is abused, neglected, or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this chapter be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

SECTION 3. That Section 39-5303, Idaho Code, be, and the same is hereby amended to read as follows:

39-5303. DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or private health facility, or a state-licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or

exploited shall immediately report such information to the commission. Provided however, that nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. When there is reasonable cause to believe that abuse or sexual assault has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult, any person required to report under this section shall also report such information within four (4) hours to the appropriate law enforcement agency.

(2) Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-113, Idaho Code. If an employee at a state licensed or certified residential facility fails to report abuse or sexual assault that has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult as provided under this section, the department shall also have the authority to:

- (a) Revoke the facility's license and/or contract with the state to provide services;
- (b) Deny payment;
- (c) Assess and collect a civil monetary penalty with interest from the facility owner and/or facility administrator;
- (d) Appoint temporary management;
- (e) Close the facility and/or transfer residents to another certified facility;
- (f) Direct a plan of correction;
- (g) Ban admission of persons with certain diagnoses or requiring specialized care;
- (h) Ban all admissions to the facility;
- (i) Assign monitors to the facility; or
- (j) Reduce the licensed bed capacity.

Any action taken by the department pursuant to this subsection shall be appealable as provided in chapter 52, title 67, Idaho Code.

(3) Any person, including any officer or employee of a financial institution, who has reasonable cause to believe that a vulnerable adult is being abused, neglected or exploited may report such information to the commission or its contractors providers.

(4) The commission and its contractors providers shall make training available to officers and employees of financial institutions in identifying and reporting instances of abuse, neglect or exploitation involving vulnerable adults.

(5) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony or services provided in good faith, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.

(6) Any person who makes a report or allegation in bad faith, with malice or knowing it to be false, shall be liable to the party against whom the report was made for the amount of actual damages sustained or statutory damages in the amount of five hundred dollars (\$500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

SECTION 4. That Section 39-5304, Idaho Code, be, and the same is hereby amended to read as follows:

39-5304. REPORTING REQUIREMENTS, INVESTIGATION, EMERGENCY ACCESS. (1) When a report is required pursuant to this chapter, such report shall be made immediately to the commission or appropriate contractor provider. Provided however, that nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. If known, the report shall contain the name and address of the vulnerable adult; the caretaker; the alleged perpetrator; the nature and extent of suspected abuse, neglect or exploitation; and any other information that will be of assistance in the investigation.

(2) If the allegations in the report indicate that an emergency exists, the commission or contractor provider must initiate an investigation immediately, and initiate contact with the alleged vulnerable adult within twenty-four (24) hours from the time the report is received. All other investigations must be initiated within seventy-two (72) hours from the time the report is received.

(3) The investigation shall include a determination of the nature, extent and cause of the abuse, neglect, or exploitation, examination of evidence and consultation with persons thought to have knowledge of the circumstances, and identification, if possible, of the person alleged to be responsible for the abuse, neglect or exploitation of the vulnerable adult.

(4) Where no emergency exists, the commission or contractor provider may determine, based on the review of the report and any initial inquiries, that an interview with the vulnerable adult is not necessary to the investigation. If the commission or contractor provider determines that an interview is necessary, the preferred method of interviewing is by means of a personal visit with the vulnerable adult in the adult's dwelling. Alternatively, the interview may occur in the local office of the commission or contractor provider, or by telephone conversation, or by any other means available to the commission or contractor provider. Decisions regarding the method of conducting any interview will be within the discretion of the commission or contractor provider.

(5) Upon completion of an investigation, the commission or contractor provider shall prepare a written report of the investigation. The name of the person making the original report or any person mentioned in the report shall not be disclosed unless those persons specifically request such disclosure or unless the disclosure is made pursuant to the commission's duty to notify law enforcement as required in section 39-5310, Idaho Code, to a request to law enforcement for emergency access, a court order or hearing.

If the abuse, neglect, or exploitation is substantiated to have occurred in a state-certified or licensed facility, a copy of the findings shall be sent to the licensing and certification office of the department.

If the commission or contractor provider determines that a report is unsubstantiated and that no other law has been violated, all records related to the report shall be expunged no later than three (3) years following the completion of the investigation.

SECTION 5. That Section 39-5305, Idaho Code, be, and the same is hereby amended to read as follows:

39-5305. INSPECTIONS -- RIGHT OF ENTRY. (1) Upon receiving information that a vulnerable adult is alleged to be abused, neglected, or exploited, the commission or contractor provider shall cause such investigation to be made in accordance with the provisions of this chapter as is appropriate. In making the investigation, the commission or contractor provider shall use its own resources and may enlist the cooperation of peace

officers. In an emergency, any authorized commission employee or ~~contractor~~ provider shall enlist the cooperation of a peace officer to ensure the safety of the vulnerable adult, and they shall receive the peace officer's assistance. Assistance in an emergency may include entry on private or public property where a vulnerable adult is allegedly subject to abuse, neglect or exploitation, and the removal and transportation of the vulnerable adult to a medical facility, care-providing facility, or other appropriate and safe environment.

(2) In a nonemergency, any peace officer may cooperate with an authorized commission employee or ~~contractor~~ provider in ensuring the safety of a vulnerable adult who has been abused, neglected or exploited, including a vulnerable adult living in a condition of self-neglect. Assistance shall only be provided only with the consent of the vulnerable adult or his legal representative.

(3) For the purposes of implementing or enforcing any provision of this chapter or any rule authorized under the provisions of this chapter, any duly authorized commission employee or ~~contractor~~ provider may, upon presentation of appropriate credentials at any reasonable time, with consent or in an emergency, enter upon any private or public property where a vulnerable adult allegedly is subject to abuse, neglect, or exploitation.

(4) All inspections and searches conducted under the provisions of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and article I, section 17, of the constitution of the state of Idaho. The state shall not, under the authority granted in this chapter, conduct warrantless administrative searches of private property except with consent, or in an emergency.

(5) If consent to entry is not given, a commission employee or ~~contractor~~ provider with the assistance of the county prosecutor may obtain, and any magistrate or district judge is authorized to issue, a search warrant upon showing that probable cause exists to believe a vulnerable adult is subject to abuse, neglect or exploitation. Upon request of a commission employee or ~~contractor~~ provider, a peace officer shall serve the search warrant.

SECTION 6. That Section 39-5306, Idaho Code, be, and the same is hereby amended to read as follows:

39-5306. SUPPORTIVE SERVICES AND DISCLOSURE. (1) If there is substantiated abuse, neglect, or exploitation of a vulnerable adult, the commission or ~~contractor~~ provider has the responsibility to assist the adult in obtaining available services.

(2) If the commission or ~~contractor~~ provider develops a plan of supportive services for the vulnerable adult, the plan shall provide for appropriate supportive services available to the vulnerable adult that are least restrictive to personal freedom and shall provide encouragement for client self-determination and continuity of care.

(3) If the vulnerable adult does not consent to the receipt of reasonable and necessary supportive services, or if the vulnerable adult withdraws consent, services shall not be provided or continued.

(4) If the commission or ~~contractor~~ provider determines that a vulnerable adult is an incapacitated person, as defined in section 15-5-101(a), Idaho Code, mentally ill as defined in section 66-317, Idaho Code, or developmentally disabled as defined in section 66-402, Idaho Code, the commission or ~~contractor~~ provider may petition the court for protective proceedings, appointment of a guardian or conservator and such other relief as may be provided by chapter 5, title 15, Idaho Code, and chapters 3 and 4, title 66, Idaho Code.

(5) An employee or ~~contractor~~ provider of the commission shall not be appointed the guardian or conservator of a vulnerable adult unless the commission employee or ~~contractor~~ provider has a spousal or familial relationship with the vulnerable adult.

SECTION 7. That Section 39-5308, Idaho Code, be, and the same is hereby amended to read as follows:

39-5308. INTERAGENCY COOPERATION. (1) In performing the duties set forth in this chapter, the commission or ~~contractor~~ provider may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions, and local health directors, and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available. Interagency cooperation shall include the involvement, when appropriate, of law enforcement personnel, department personnel, medical personnel, and any other person or entity deemed necessary due to their specialized training in providing services to vulnerable adults. Interagency cooperation may also include access to client information necessary for the provision of services to vulnerable adults.

(2) The commission shall provide to the department on at least a quarterly basis a listing of all alleged perpetrators against whom an allegation of adult abuse, neglect or exploitation has been substantiated. Upon request, all available supportive information shall be provided to enable the department to conduct criminal background checks and other required investigations.

(3) The department shall provide to the commission or ~~contractor~~ provider any report received under this chapter from a nursing facility defined in section 39-1301(b), Idaho Code, or an employee of such facility.

(4) The commission or ~~contractor~~ provider shall provide the department with any report received under this chapter involving allegations of abuse, neglect or exploitation occurring in a nursing facility as defined in section 39-1301(b), Idaho Code.

(5) The commission, ~~contractors~~ providers, and the department shall use interagency staffing when necessary and share client and facility information necessary to provide services to vulnerable adults.

SECTION 8. That Section 39-5309, Idaho Code, be, and the same is hereby amended to read as follows:

39-5309. COORDINATION OF SERVICES. Subsequent to the authorization for the provision of reasonable and necessary emergency and support services, the commission or ~~contractor~~ provider shall initiate a review of each case at reasonable intervals over a reasonable period of time as the commission or ~~contractor~~ provider deems necessary based upon the circumstances in each individual case to determine whether continuation or modification of the services provided is warranted. A decision to continue the provision of such services should be made in concert with appropriate personnel from state agencies, departments, service providers and others, and shall comply with the consent provisions of this chapter.

SECTION 9. That Section 67-5011, Idaho Code, be, and the same is hereby amended to read as follows:

67-5011. ADULT PROTECTION PROTECTIVE SERVICES. Adult ~~protection~~ protective services for vulnerable adults shall be administered through the commission. Adult ~~protection~~ protective services are specialized social services directed toward assisting vulnerable adults who are unable to manage their own affairs, carry out the activities of daily living or protect

themselves from abuse, neglect or exploitation. ~~Provision of services may be accomplished by contracting with each of the commission's local area agencies on aging.~~ For the purposes of implementing the provisions of this section, the commission shall assume all responsibilities cited in chapter 53, title 39, Idaho Code, entitled "Aadult Aabuse, Nneglect and Eexploitation Aact."

Approved March 7, 2019

CHAPTER 44
(H.B. No. 22)

AN ACT

RELATING TO SPEECH AND HEARING SERVICES; AMENDING SECTION 54-2904, IDAHO CODE, TO PROVIDE FOR ELECTRONIC PROOF OF LICENSURE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-2916A, IDAHO CODE, TO REMOVE A REQUIREMENT THAT A SIGN LANGUAGE INTERPRETER ATTAIN A MINIMUM AGE TO BE ELIGIBLE FOR LICENSURE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2904, Idaho Code, be, and the same is hereby amended to read as follows:

54-2904. LICENSE REQUIRED. (1) Except as otherwise provided in this chapter, it shall be unlawful for any person to engage in the practice or to perform or offer to practice audiology or speech-language pathology or sign language interpreting or to act as a hearing aid dealer ~~or~~ and fitter unless such person is duly licensed in accordance with this chapter. A license issued pursuant to this chapter shall be posted in the licensee's established place of business, or proof of licensure carried upon the person, and shall be presented as ~~proof of licensure~~ upon demand. The proof of licensure required by this section may be produced in either paper or electronic format. Acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device.

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

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

(4) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "hearing aid dealer and fitter" or

any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of audiology or hearing aid dealing and fitting, unless such services are provided by an audiologist or hearing aid dealer and fitter licensed in accordance with this chapter.

(5) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "sign language interpreter" or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of sign language interpreting, unless such services are provided by a sign language interpreter licensed in accordance with this chapter.

SECTION 2. That Section 54-2916A, Idaho Code, be, and the same is hereby amended to read as follows:

54-2916A. QUALIFICATIONS FOR LICENSURE -- SIGN LANGUAGE INTERPRETER. To be eligible for licensure as a sign language interpreter, the applicant shall:

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

(2) Provide verification acceptable to the board of the following:

(a) ~~Having attained at least eighteen (18) years of age;~~

~~(b) Good moral character;~~

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

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

(e) Never having been found by the board to have engaged in conduct prohibited by this chapter.

The board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for licensure.

(3) Provide evidence satisfactory to the board of having successfully passed a nationally recognized competency examination approved by the board or achieved certification defined by board rule;

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

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

Approved March 7, 2019

CHAPTER 45
(H.B. No. 27)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-402, IDAHO CODE, TO PROVIDE THAT AMOUNTS IN CERTAIN DOCUMENTS SHALL BE ROUNDED TO THE NEAREST WHOLE DOLLAR AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-1229, IDAHO CODE, TO PROVIDE THAT AMOUNTS IN CERTAIN DOCUMENTS SHALL BE ROUNDED TO THE NEAREST WHOLE DOLLAR AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-402, Idaho Code, be, and the same is hereby amended to read as follows:

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director, on or before the dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath, for the period set forth in subsections (3) and (4) of this section, and pay the director a tax at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to policyholders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to policyholders. As to title insurance, "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section 41-403, Idaho Code, as that section applies through calendar year 2009, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and five-tenths percent (1.5%).

(b) As to all other kinds of insurance, the rate of tax shall be:

(i) For calendar year 2004 and before, two and seventy-five hundredths percent (2.75%);

(ii) For calendar year 2005, two and five-tenths percent (2.5%);

(iii) For calendar year 2006, two and three-tenths percent (2.3%);

(iv) For calendar year 2007, two and one-tenth percent (2.1%);

(v) For calendar year 2008, one and nine-tenths percent (1.9%);

(vi) For calendar year 2009, one and seven-tenths percent (1.7%); and

(vii) For calendar year 2010 and thereafter, one and five-tenths percent (1.5%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business, if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars (\$400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and the current year's rate, and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty percent (60%);

(ii) On or before September 15, twenty percent (20%); and

(iii) On or before December 15, fifteen percent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any reciprocal insurer doing exclusively a worker's compensation business and complying with the provisions of the worker's compensation law of this state and writing worker's compensation only for members under that law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under section 401(a), 403, 404, 408 or 501(a) of the United States Internal Revenue Code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any reciprocal insurer which that exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.

(9) Except as otherwise provided in this subsection, this section shall not apply as to any dental care services or as to any dental insurance authorized by title 41, Idaho Code. A tax is hereby imposed upon each contract for dental care services and dental insurance, at the rate of four cents (4¢) per contract, per month, such amount to be computed each month. Tax payments shall be made consistent with the documentation requirements and payment dates set forth in this section. The tax imposed in this subsection shall be in lieu of the premium tax provided in this section and in lieu of all other taxes, licenses and fees as provided by section 41-405, Idaho Code; provided however, that this subsection shall not apply to entities governed by chapter 34, title 41, Idaho Code.

(10) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

(11) An insurer shall round to the nearest whole dollar any amount shown or required to be shown on any return, form, statement, or other document submitted to the director. Any record or other document prepared or maintained by the director shall express any dollar amount rounded to the nearest whole dollar.

SECTION 2. That Section 41-1229, Idaho Code, be, and the same is hereby amended to read as follows:

41-1229. TAX ON SURPLUS LINES. (1) On or before the first day of March of each year, each broker shall remit to the director a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the director, and at the rate of one and five-tenths percent (1.5%). Such tax shall be in lieu of all other taxes upon such insurers with respect to the business so reported.

(2) For property and casualty insurance other than worker's compensation insurance, if Idaho is the insured's home state, then the tax so payable shall be computed upon the entire premium under subsection (1) of this section, without regard to whether the policy covers risks or exposures that are located in Idaho. For all other lines of insurance, if a surplus line policy covers risks or exposures only partially in Idaho, the tax so payable shall be computed upon the proportion of the premium that is properly allocable to the risks or exposures located in Idaho.

(3) Each broker shall round to the nearest whole dollar any amount shown or required to be shown on any return, form, statement, or other document submitted to the director or to any entity set forth in rule pursuant to section 41-1232, Idaho Code. Any record or other document prepared or maintained by the director shall express any dollar amount rounded to the nearest whole dollar.

Approved March 7, 2019

CHAPTER 46
(H.B. No. 37)

AN ACT

RELATING TO CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2403, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 16-2403, Idaho Code, be, and the same is hereby amended to read as follows:

16-2403. DEFINITIONS. As used in this chapter:

(1) "Child" means an individual less than eighteen (18) years of age and not emancipated by either marriage or legal proceeding.

(2) "Consistent with the least restrictive alternative principle" means that services are delivered in the setting ~~which~~ that places the fewest restrictions on the personal liberty of the child, ~~and that~~ that provides the greatest integration with individuals who do not have disabilities, in typical and age-appropriate, school, community and family environments, which is consistent with safe, effective and cost-effective treatment for the child and family.

(3) "Department" means the department of health and welfare.

(4) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.

(5) "Director" means the director of the state department of health and welfare.

(6) "Emergency" means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, his family or others, or poses a serious risk of substantial deterioration in the child's condition which cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in his family home.

(7) "Informed consent to treatment" means a knowing and voluntary decision to undergo a specific course of treatment, evidenced in writing, and

made by an emancipated child, or a child's parent, or guardian, who has the capacity to make an informed decision, after the staff of the facility or other provider of treatment have has explained the nature and effects of the proposed treatment.

(8) "Involuntary treatment" means treatment, services and placement of children provided without consent of the parent of a child, under the authority of a court order obtained pursuant to this chapter, as directed by an order of disposition issued by a designated employee of the department of health and welfare under section 16-2415, Idaho Code.

(9) "Lacks capacity to make an informed decision concerning treatment" means that the parent is unable to understand the nature and effects of hospitalization or treatment, or is unable to engage in a rational decision-making process regarding such hospitalization or treatment, as evidenced by an inability to weigh the risks and benefits, despite conscientious efforts to explain them in terms that the parent can understand.

(10) "Likely to cause harm to himself or to suffer substantial mental or physical deterioration" means that, as evidenced by recent behavior, the child:

(a) Is likely in the near future to inflict substantial physical injury upon himself; or

(b) Is likely to suffer significant deprivation of basic needs such as food, clothing, shelter, health or safety; or

(c) Will suffer a substantial increase or persistence of symptoms of mental illness or serious emotional disturbance which is likely to result in an inability to function in the community without risk to his safety or well-being or the safety or well-being of others, and which cannot be treated adequately with available home and community-based outpatient services.

(11) "Likely to cause harm to others" means that, as evidenced by recent behavior causing, attempting, or threatening such harm with the apparent ability to complete the act, a child is likely to cause physical injury or physical abuse to another person.

(12) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. 6042 and 42 U.S.C. 10801 et seq.

(13) "Serious emotional disturbance" means an a diagnostic and statistical manual of mental disorders (DSM) diagnosable mental health, emotional or behavioral disorder, or a neuropsychiatric condition which results in a serious disability, and which requires sustained treatment interventions, and causes the child's functioning to be impaired in thought, perception, affect or behavior. A disorder shall be considered to "result in a serious disability" if it causes substantial impairment of functioning in family, school or community that is measured by and documented through the use of a standardized instrument approved by the department and conducted or supervised by a qualified clinician. A substance abuse disorder does not, by itself, constitute a serious emotional disturbance, although it may coexist with serious emotional disturbance.

(14) "Special therapy" means any treatment modality used to treat children with serious emotional disturbances which is subject to restrictions or special conditions imposed by the department of health and welfare rules.

(15) "Surrogate parent" means any person appointed to act in the place of the parent of a child for purposes of developing an individual education program under the authority of the individuals with disabilities education act, 20 U.S.C. 1400 et seq., as amended.

(16) "Teens at risk" means individuals attending Idaho secondary public schools who have been identified as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance abuse or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or substance abuse.

(17) "Treatment facility" means a facility or program meeting applicable licensing standards, that has been approved for the provisions of services under this chapter by the department of health and welfare.

Approved March 7, 2019

CHAPTER 47
(H.B. No. 46)

AN ACT

RELATING TO CERTIFIED SHORTHAND REPORTERS; AMENDING SECTION 54-3107, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXAMINATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3108, IDAHO CODE, TO PROVIDE FOR A NEW TYPE OF EXAMINATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 31, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3109A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTIFICATION BY ENDORSEMENT.

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

SECTION 1. That Section 54-3107, Idaho Code, be, and the same is hereby amended to read as follows:

54-3107. POWERS AND DUTIES. The state certified shorthand reporters board shall have the following powers and duties:

(1) To determine the qualifications of persons applying for certificates and the renewal of a certificate under this chapter.

(2) To prescribe, administer, and ~~determine a passing grade for the~~ approve examination of applicants applying for certificates under this chapter, including examinations that are administered electronically or online.

(3) To collect the fees and charges prescribed by this chapter.

(4) To execute and issue temporary permits and certified shorthand reporters certificates under the conditions prescribed in this chapter.

(5) To refuse to issue, refuse to renew, revoke or suspend or otherwise discipline any certificate or permit upon the grounds and in the manner prescribed by this chapter.

(6) To make rules to carry out the intent and purposes of this chapter.

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

SECTION 2. That Section 54-3108, Idaho Code, be, and the same is hereby amended to read as follows:

54-3108. QUALIFICATIONS -- REQUIRED EXAMINATION -- RENEWAL OF CERTIFICATES. (1) Applicants for certification must take and pass the Idaho certified shorthand reporter examination. Alternatively, applicants for certification must provide proof, satisfactory to the board, of having passed one (1) of the following examinations within the two (2) years prior to the date of the application:

(a) The registered professional reporter (RPR) examination;

(b) The registered merit reporter (RMR) examination;

(c) The registered diplomate reporter (RDR) examination; ~~or~~

(d) The certified realtime reporter (CRR) examination; or

(e) The certified realtime captioner (CRC) examination.

(2) Any applicant who is a lawful resident of the United States of good moral character, having graduated from an accredited high school or having had an equivalent education, shall be entitled to receive a certificate as

a certified shorthand reporter upon payment of the fees required by this chapter. All applications shall be in such form as prescribed by the board and filed with the board at least thirty (30) days prior to the announced date of the reporters examination. The board in its discretion may make such additional investigation and inquiry, or require additional information from the applicant, as it shall deem necessary in determining the qualifications of the applicant. The board shall thereupon notify the applicant as to whether their application to take the reporters examination is accepted.

(3) All certified shorthand reporter certificates shall be issued for a period of one (1) year and shall be renewable upon payment of a renewal fee. The renewal and reinstatement of all certificates issued under the provisions of this chapter shall be in accordance with section 67-2614, Idaho Code.

SECTION 3. That Chapter 31, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3109A, Idaho Code, and to read as follows:

54-3109A. ENDORSEMENT -- CERTIFICATION. The board, upon application and the payment of the required fee, may issue a shorthand reporter certificate by endorsement to a person who is of good moral character, who holds a shorthand reporter certificate of qualification or license issued to that person by the proper authority of any state or territory of the United States, and who:

(1) Provides official documentation that the individual has passed at any time one (1) of the examinations set forth in section 54-3108, Idaho Code; and

(2) Provides documentation that the individual has continually worked as a certified shorthand reporter for at least three (3) of the last five (5) years immediately prior to application.

Approved March 7, 2019

CHAPTER 48
(H.B. No. 59)

AN ACT

RELATING TO ORGAN DONATION; AMENDING SECTION 49-315, IDAHO CODE, TO REVISE AN AGE REQUIREMENT AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-2444, IDAHO CODE, TO REVISE AN AGE REQUIREMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's driver's license shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18

until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes se as long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license. The provisions of this subsection shall apply to licensees ~~sixteen~~ fifteen (165) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with and the donor indicates this desire be placed on the license.

(6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(7) A licensee who is a veteran may request that his or her status as such be designated on the driver's license at no additional cost. Any such request shall be accompanied by proof of being a current or former member of the United States armed forces. Upon request and submission of satisfactory proof, the department shall indicate such person's status as a veteran on any class of driver's license issued pursuant to this section. Such designation shall be made upon original issuance or renewal of a driver's license. Designation shall also be made on any duplicate driver's license issued, provided that the fee for such duplicate driver's license is paid in accordance with section 49-306, Idaho Code.

Satisfactory proof of being a current or former member of the United States armed forces must be furnished by an applicant to the department before a designation of veteran status will be indicated on any class of driver's license. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs that identifies a character of service upon separation as "honorable" or "general under honorable conditions."

SECTION 2. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing identification card that shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's identification card shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so as long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a ~~four-~~ four (4) year identification card issued to persons twenty-one (21) years of age or older shall be ten dollars (\$10.00) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be ten dollars (\$10.00), of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an ~~eight-~~ eight (8) year identification card shall be twenty dollars (\$20.00) of which ten dollars (\$10.00) shall be retained by the county and credited to the current expense fund, and ten dollars (\$10.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday, except as otherwise

provided in subsection (3) of this section. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as otherwise provided in subsection (3) of this section.

Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than twenty-five (25) months before, and upon application and payment of the required fee.

(3) Every identification card issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of identification card issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued an identification card with an expiration date of one (1) year from the date of issuance.

(4) When an identification card has been expired for less than twenty-five (25) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twenty-five (25) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(5) (a) If an Idaho identification card has expired or will expire and the identification cardholder is temporarily out of state except on active military duty, the identification cardholder may request in writing on a form prescribed by the department an extension of the identification card. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be no more than a twelve (12) month period. If the department determines that an extension of the identification card is necessary, it may issue an identification card showing the date to which the expired identification card is extended. Identification card extensions are limited to two (2) consecutive extensions per identification cardholder.

(b) Upon returning to the state of Idaho, the identification cardholder shall, within ten (10) days, apply for a renewal of the expired identification card and surrender the extended identification card and the expired identification card.

(6) An Idaho identification card issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so as long as active duty continues, and the identification card shall remain in full force and effect sixty (60) days following the date the cardholder is released from active duty.

(7) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the identification card by the imprinting

of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are ~~sixteen~~ fifteen (165) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(8) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(9) A person who is a veteran may request that his or her status as such be designated on an identification card at no additional cost. Any such request shall be accompanied by proof of being a current or former member of the United States armed forces. Upon request and submission of satisfactory proof, the department shall indicate such person's status as a veteran on any identification card issued pursuant to the provisions of this section. Such designation shall be made upon original issuance or renewal of an identification card. Designation shall also be made on any duplicate identification card issued, provided that the fee for such duplicate card is paid in accordance with this section.

Satisfactory proof of being a current or former member of the United States armed forces must be furnished by an applicant to the department before a designation of veteran status will be indicated on any identification card. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs that identifies a character of service upon separation as "honorable" or "general under honorable conditions."

(10) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(11) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(12) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(13) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(14) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as provided in section 49-322(5), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(15) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (11) of this section.

CHAPTER 49
(H.B. No. 60)

AN ACT

RELATING TO COOPERATIVE MARKETING ASSOCIATIONS; AMENDING SECTION 22-2614, IDAHO CODE, TO REMOVE A PROVISION REGARDING A VOTING LIMITATION, TO PROVIDE FOR BYLAW REQUIREMENTS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 22-2617, IDAHO CODE, TO REVISE MARKETING CONTRACT PROVISIONS.

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

SECTION 1. That Section 22-2614, Idaho Code, be, and the same is hereby amended to read as follows:

22-2614. STOCK -- MEMBERSHIP CERTIFICATES -- WHEN ISSUED -- VOTING -- LIABILITY -- LIMITATIONS ON TRANSFER AND OWNERSHIP. (1) When a member of an association established without capital stock, has paid his membership fee in full, he shall receive a certificate of membership.

(2) No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the members' right to vote.

(3) Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory notes given in payment thereof.

(4) No stockholder of a cooperative association shall own more than one-twentieth (1/20) of the issued common stock of the association; and an association, in its ~~by-laws~~ bylaws, may limit the amount of common stock which one (1) member may own to any amount less than one-twentieth (1/20) of the issued common stock.

~~No member or stockholder shall be entitled to more than one (1) vote.~~

(5) Any association organized with stock under this act may issue preferred stock, with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate.

(6) The ~~by-laws~~ bylaws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock subject thereto.

(7) The bylaws shall require that any association organized under this act satisfies the following requirements:

(a) Operate for the mutual benefit of the members thereof, as producers;

(b) Not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members; and

(c) Conform to one (1) or both of the following:

(i) That no member of the association is allowed more than one (1) vote because of the amount of stock or membership capital he may own therein; or

(ii) That the association does not pay dividends on stock or membership capital in excess of eight percent (8%) per annum.

(8) The association may, at any time, except when the debts of the association exceed fifty per cent (50%) of the assets thereof, buy in or pur-

chase its common stock at book value thereof as conclusively determined by the board of directors and pay for it in cash within one (1) year thereafter.

SECTION 2. That Section 22-2617, Idaho Code, be, and the same is hereby amended to read as follows:

22-2617. **MARKETING CONTRACT.** The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over ten (10) years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell the products of its members, with or without taking title thereto; and pay over to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses, ~~including interest on preferred stock not exceeding eight percent (8%) per annum,~~ and reserves for retiring the stock, if any; and other proper reserves; and ~~interest not exceeding eight percent (8%) per annum~~ upon common stock.

The ~~by-laws~~ bylaws and the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state.

In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Approved March 7, 2019

CHAPTER 50
(H.B. No. 64)

AN ACT

RELATING TO ABORTION COMPLICATIONS; AMENDING SECTION 39-9503, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 39-9504, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-9503, Idaho Code, be, and the same is hereby amended to read as follows:

39-9503. **DEFINITIONS.** As used in this chapter:

(1) "Abortion" shall have the same meaning as provided in section 18-502, Idaho Code.

(2) "Complication" means any of the following, if it constitutes an abnormal or a deviant process or event arising from the performance or completion of an abortion, ~~as follows:~~

- (a) Uterine perforation or injury to the uterus;
- (b) Injury or damage to any organ ~~inside the body;~~
- (c) Cervical perforation or injury to the cervix;

- (d) Infection;
 - (e) Heavy or excessive bleeding;
 - (f) Hemorrhage;
 - (g) Blood clots;
 - (h) Blood transfusion;
 - (i) Failure to actually terminate the pregnancy;
 - (j) Incomplete abortion or retained tissue;
 - (k) ~~The need for follow-up care, surgery or an aspiration procedure for incomplete abortion or retained tissue;~~
 - ~~(l) Weakness, nausea, vomiting or diarrhea that lasts more than twenty-four (24) hours;~~
 - (m) Pain or cramps that do not improve with medication;
 - (n) A fever of one hundred and four-tenths (100.4) degrees or higher for more than twenty-four (24) hours;
 - (o) Hemolytic reaction due to the administration of ABO-incompatible blood or blood products;
 - (p) Hypoglycemia where onset occurs while the patient is being cared for in the abortion facility;
 - ~~(q) Physical injury associated with care received in the abortion facility;~~
 - (r) Pelvic inflammatory disease;
 - (s) Endometritis;
 - (t) Missed ectopic pregnancy;
 - (u) Cardiac arrest;
 - (v) Respiratory arrest;
 - (w) Renal failure;
 - (x) Metabolic disorder;
 - (y) Shock;
 - (z) Embolism;
 - (aa) Coma;
 - (bb) Placenta previa or preterm delivery in subsequent pregnancies;
 - (cc) Free fluid in the abdomen;
 - (dd) Adverse or allergic reaction to anesthesia or other drugs;
 - (ee) Subsequent development of breast cancer;
 - ~~(ff) Inability, refusal or unwillingness to have follow-up care, surgery or an aspiration procedure following an incomplete abortion or retained tissue;~~
 - ~~(gg) Inability, refusal or unwillingness to have a follow-up visit;~~
 - ~~(hh) Referral to or care provided by a hospital, emergency department or urgent care clinic or department;~~
 - (i) Death;
 - (j) Any psychological or emotional condition reported by the patient, such as depression, suicidal ideation, anxiety or a sleeping disorder; or
 - (k) Any other adverse event as defined by the federal food and drug administration criteria provided in the medwatch reporting system.
- (3) "Department" means the state department of health and welfare.
- (4) "Facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical center or other institution or location where medical care is provided to any person.
- (5) "Hospital" means any institution licensed as a hospital pursuant to chapter 13, title 39, Idaho Code.
- (6) "Medical practitioner" means a licensed medical care provider capable of making a diagnosis within the scope of such provider's license.
- (7) "Pregnant" or "pregnancy" means the reproductive condition of having an unborn child in the uterus.

SECTION 2. That Section 39-9504, Idaho Code, be, and the same is hereby amended to read as follows:

39-9504. ABORTION COMPLICATION REPORTING. (1) Every hospital, licensed health care facility or individual medical practitioner shall file a written report with the department regarding each woman who comes under the hospital's, health care facility's or medical practitioner's care and ~~reports any complication, requires medical treatment or suffers death receives treatment for any item listed in section 39-9503(2), Idaho Code,~~ that the attending medical practitioner has reason to believe, in the practitioner's reasonable medical judgment, ~~is a direct or an indirect result of an abortion~~ constitutes an abnormal or a deviant process or event arising from the performance or completion of an abortion. Such reports shall be completed by the hospital, health care facility or attending medical practitioner who treated the woman, signed by the attending medical practitioner and transmitted to the department within ninety (90) days from the last date of treatment or other care or consultation for the complication.

(2) Every hospital, licensed health care facility or individual medical practitioner required to submit a complication report shall attempt to ascertain and shall report on the following:

- (a) The age and race of the woman;
- (b) The woman's state and county of residence;
- (c) The number of previous pregnancies, number of live births and number of previous abortions of the woman;
- (d) The date the abortion was performed and the date that the abortion was completed, as well as the gestational age of the fetus, as defined in section 18-604, Idaho Code, and the methods used;
- (e) Identification of the physician who performed the abortion, the facility where the abortion was performed and the referring medical practitioner, agency or service, if any; and
- (f) The specific complication, as that term is defined in section 39-9503(2), Idaho Code, including, where applicable, the location of the complication in the woman's body, the date on which the complication occurred and whether there were any preexisting medical conditions that would potentially complicate pregnancy or the abortion;
- (g) Whether any post-abortion follow-up visit was scheduled or required by the abortion provider and, if so, whether the woman refused or failed to attend such follow-up visit;
- (h) Whether the woman was referred to a hospital, emergency department, or urgent care clinic or department for treatment for any item listed in section 39-9503(2), Idaho Code;
- (i) Any follow-up care, surgery, or aspiration procedure performed because of incomplete abortion or retained tissue; and
- (j) Whether the woman received treatment from any other medical practitioner for the specific complication and, if so, when such previous treatment occurred, and the medical practitioner or practitioners who provided the treatment.

(3) Reports required under this section shall not contain:

- (a) The name of the woman;
- (b) Common identifiers such as the woman's social security number or motor vehicle operator's license number; or
- (c) Other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who has obtained an abortion and subsequently suffered an abortion-related complication.

(4) The department shall prepare a comprehensive annual statistical report for the legislature based on the data gathered from reports under this section. The statistical report shall not lead to the disclosure of the identity of any medical practitioner, or any person filing a report under

this section nor of a woman about whom a report is filed. The aggregate data shall also be made independently available to the public by the department in a downloadable format.

(5) The department shall summarize aggregate data from the reports required under this chapter and submit the data to the federal centers for disease control and prevention for the purpose of inclusion in the annual vital statistics report. The aggregate data shall also be made independently available to the public by the department in a downloadable format.

(6) Reports filed pursuant to this section shall not be deemed public records and shall remain confidential, except that disclosure may be made to law enforcement officials upon an order of a court after application showing good cause. The court may condition disclosure of the information upon any appropriate safeguards it may impose.

(7) Absent a valid court order or judicial subpoena, the department, any other state department, agency or office, or any employees or contractor thereof shall not compare data concerning abortions or abortion complications maintained in an electronic or other information system file with data in any other electronic or other information system, a comparison of which could result in identifying, in any manner or under any circumstances, a woman obtaining or seeking to obtain an abortion.

(8) Statistical information that may reveal the identity of a woman obtaining or seeking to obtain an abortion shall not be maintained by the department, any other state department, agency or office, or any employee or contractor thereof.

(9) The department or an employee or contractor of the department shall not disclose to a person or entity outside the department the reports or the contents of the reports required under this section in a manner or fashion that would permit the person or entity to whom the report is disclosed to identify, in any way or under any circumstances, the woman who is the subject of the report.

(10) Original copies of all reports filed under this section shall be available to the state board of medicine for use in the performance of its official duties.

(11) The department shall communicate this reporting requirement to all medical professional organizations, medical practitioners, hospitals, emergency departments, abortion facilities, clinics, ambulatory surgical facilities, and other health care facilities operating in the state.

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

Approved March 7, 2019

CHAPTER 51
(H.B. No. 67)

AN ACT

RELATING TO LOW TEMPERATURE GEOTHERMAL RESOURCES; AMENDING SECTION 42-233, IDAHO CODE, TO PROVIDE FOR THE EXEMPTION OF PROPOSED USES OF LOW TEMPERATURE GEOTHERMAL RESOURCES PRIMARILY FOR REASONS OTHER THAN HEAT VALUE BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-233, Idaho Code, be, and the same is hereby amended to read as follows:

42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use of low temperature geothermal resources of this state shall be acquired by appropriation, except as provided in subsection (2) of this section. The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for ground water, provided that low temperature geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the department of water resources exempts the proposed use. The director may exempt a proposed use if the director finds that the concludes:

(a) The proposed use satisfies the following criteria: (i) there is no feasible alternative use of the resource; (ii) will not detrimentally affect existing water rights, including water rights for low temperature geothermal water;

(b) The proposed use will not diminish the temperature of or artesian pressure of the low temperature geothermal aquifer; and

(c) There is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available; and (iii) the exemption is in the public interest.

(2) The use of low temperature geothermal resources for the development and operation of oil and gas wells permitted under section 47-316, Idaho Code, shall not be subject to the provisions of this chapter. However, the director of the department of water resources may initiate a contested case in accordance with the provisions of chapter 52, title 67, Idaho Code, and the rules of procedure promulgated by the department, if the department has reason to believe that an oil and gas well will cause, is causing or has caused, significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to water rights existing at the time of the development of the oil and gas well or to a water resource that can be beneficially used. The evidence of causation must come from the department or be credible information from a water right or a geothermal resource permit holder existing at the time of the development of the oil and gas well. It shall be the burden of the entity operating the oil and gas well to establish that it will not cause, is not causing and has not caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to existing water rights existing at the time of the development of the oil and gas well or to a water resource that can be beneficially used. If the director determines that the well will cause, is causing or has caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to a water right existing at the time of the development of the oil and gas well or to a water resource that can be

beneficially used, the director may order the operator to take measures to mitigate those impacts.

(3) Any owner of a well who engages in the drilling, redrilling, modifying or deepening of any low temperature geothermal well shall file with the director of the department of water resources a surety bond or cash bond in the penal sum of not less than five thousand dollars (\$5,000) or more than twenty thousand dollars (\$20,000) as determined by the director of the department of water resources based on the temperature, depth and pressure of the resource, the size and depth of the well, and any other relevant factors. The surety or cash bond shall be conditioned upon the proper compliance with the provisions of this chapter and chapter 40, title 42, Idaho Code, and rules and regulations promulgated pursuant thereto. The bond shall remain in effect for one (1) year following completion of drilling, redrilling, modifying or deepening of the well or until released in writing by the director, whichever occurs first.

(4) All permits, licenses, decreed rights and valid claims to a right to the use of ground water which would be classified as a low temperature geothermal resource having a priority date prior to July 1, 1987, remain valid and the bond provisions of subsection (3) of this section are not applicable unless the well from which the right diverts water is modified or deepened. The provisions of this section shall not be applicable to all permits, licenses and rights to the use of geothermal resources as defined in chapter 40, title 42, Idaho Code, which would be classified as a low temperature geothermal resource under this section, issued or proclaimed prior to July 1, 1987, and the bond provisions of subsection (3) of this section are not applicable to such wells.

Approved March 7, 2019

CHAPTER 52
(H.B. No. 86)

AN ACT

RELATING TO SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-362200, IDAHO CODE, TO PROVIDE A SALES TAX EXEMPTION FOR THE LABOR COST OF ADDING ACCESSORIES TO A NEW VEHICLE.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-362200, Idaho Code, and to read as follows:

63-362200. LABOR FOR NEW VEHICLE ACCESSORIES. (1) There is hereby exempted from the taxes imposed by this chapter a motor vehicle dealer's labor or service charge to add accessories to new factory-delivered vehicles, when sold in conjunction with the new vehicle.

(2) For the purposes of this section:

(a) "Accessories" means an object, feature, or device that does not come standard with a motor vehicle to a motor vehicle dealer from a vehicle manufacturer or distributor, but may be ordered by the retail customer as an addition to the motor vehicle to enhance the performance, effectiveness, or beauty of the motor vehicle. Examples include, but are not limited to, saddlebags for a motorcycle, truck bed coating, and storage racks, chemical or film paint sealant, rustproofing, undercoating, stereo or sound systems, anti-theft devices, alarm systems, wheel locks, window tinting, splash guards, or fabric protection for

motor vehicles. "Accessories" does not mean a service or maintenance contract.

(b) "Motor vehicle" means a passenger car, moped, motorbike, motorcycle, motor-driven cycle, motorized wheelchair, electric personal assistive mobility device, neighborhood electric vehicle, specialty off-highway vehicle, all-terrain vehicle, utility type vehicle, all as defined in chapter 1, title 49, Idaho Code, or a vessel, as defined in section 63-3622R(a)(4), Idaho Code, or any other motorized vehicle not described in this paragraph. "Motor vehicle" does not mean aircraft as defined in section 21-101, Idaho Code, a bus, motor home, recreational vehicle, park model recreational vehicle, farm tractor or other self-propelled farm equipment, any type of trailer, special mobile equipment, commercial vehicle or truck exceeding eight thousand (8,000) pounds, or authorized emergency vehicle, all as defined in chapter 1, title 49, Idaho Code.

Approved March 7, 2019

CHAPTER 53
(H.B. No. 87)

AN ACT

RELATING TO PERSONAL PROPERTY TAX; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 63-602EE, IDAHO CODE, TO PROVIDE THAT A PROPERTY TAX EXEMPTION FOR AGRICULTURAL MACHINERY AND EQUIPMENT INCLUDES CERTAIN APPLICATIONS, TO PROVIDE A DEFINITION, TO PROVIDE A RULE OF CONSTRUCTION, AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 63-602EE, IDAHO CODE, RELATING TO THE PROPERTY TAX EXEMPTION FOR AGRICULTURAL MACHINERY AND EQUIPMENT; AMENDING SECTION 63-602EE, IDAHO CODE, AS ENACTED BY SECTION 3, CHAPTER 297, LAWS OF 2018, TO PROVIDE THAT A PROPERTY TAX EXEMPTION FOR AGRICULTURAL MACHINERY AND EQUIPMENT HAS CERTAIN APPLICATIONS, TO PROVIDE A DEFINITION, TO PROVIDE A RULE OF CONSTRUCTION, AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION, AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. Since the enactment in 2001 of Section 63-602EE, Idaho Code, it has been the policy of the state of Idaho to exempt all machinery and equipment used exclusively in the production or harvest of agricultural commodities from property tax. However, farmers engaged in the production or harvest of certain commodities, including mint, milk, honey, and hops, have been charged property tax on machinery or equipment in some counties, while farmers in other counties were not taxed. The Legislature finds that machinery or equipment used to distill mint oil; pick, move, dry, or bale hops; milk dairy animals; or extract honey should all be exempt from paying property taxes under the original intent of Section 63-602EE, Idaho Code. There may also be other types of machinery or equipment used exclusively for the production or harvest of agricultural commodities that should have received this exemption but were denied the exemption in the past. Therefore, the purpose of this act is to make clarifications to ensure that county assessors treat all farming operations fairly and consistently throughout the state. Furthermore, it is the intent of the Legislature that Section 63-602EE, Idaho Code, be broadly construed to ensure that agricultural machinery and equipment that has been denied the exemption in the past will now receive the exemption and to ensure that all machinery and equipment used exclusively in the production or harvest of agricultural commodities that currently receive the exemption will continue to receive

the exemption. It is legislative intent that if there is any doubt as to whether current or future machinery or equipment meets the standards of the exemption, the benefit shall go to the taxpayer.

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

63-602EE. PROPERTY EXEMPT FROM TAXATION -- CERTAIN TANGIBLE PERSONAL PROPERTY. The following property is exempt from taxation: class 2 property that is agricultural machinery and equipment and exclusively used in agriculture during the immediately preceding tax year. For purposes of this section:

(1) "Agricultural machinery and equipment" shall mean any machinery and equipment that is used in:

(a) Production or harvest of field crops including, but not limited to, grains, feed crops, fruits and vegetables, or the production of or caring for nursery stock as defined in section 22-2302, Idaho Code;

(b) Production of hop crops including, but not limited to, stationary picking machines, drying kilns, fans and burners, conveyors and other equipment to move hop crops and baling equipment; hop crops including, but not limited to, rhizomes, bines, leaves, stems and cones; or

(c) The grazing, feeding or raising of livestock, fur-bearing animals, fish, fowl and bees, or harvest of their production, to be sold or used as part of a net profit-making agricultural enterprise or dairy.

(2) "Harvest" shall include all activities necessary for a raw agricultural commodity to be put into its most basic salable form and shall also include on-farm storage of the commodity before it is first handled in the primary channels of trade.

(3) Buildings shall not be considered to be agricultural machinery and equipment.

(4) The provisions of this section shall be broadly interpreted in favor of granting the exemption.

SECTION 3. That Section 63-602EE, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 63-602EE, Idaho Code, as enacted by Section 3, Chapter 297, Laws of 2018, be, and the same is hereby amended to read as follows:

63-602EE. PROPERTY EXEMPT FROM TAXATION -- CERTAIN TANGIBLE PERSONAL PROPERTY. The following property is exempt from taxation: class 2 property that is agricultural machinery and equipment and exclusively used in agriculture during the immediately preceding tax year. For purposes of this section:

(1) "Agricultural machinery and equipment" shall mean any machinery and equipment that is used in:

(a) Production or harvest of field crops including, but not limited to, grains, feed crops, fruits and vegetables, or the production of or caring for nursery stock as defined in section 22-2302, Idaho Code; or

(b) The grazing, feeding or raising of livestock, fur-bearing animals, fish, fowl and bees, or harvest of their production, to be sold or used as part of a net profit-making agricultural enterprise or dairy.

(2) "Harvest" shall include all activities necessary for a raw agricultural commodity to be put into its most basic salable form and shall also include on-farm storage of the commodity before it is first handled in the primary channels of trade.

(3) Buildings shall not be considered to be agricultural machinery and equipment.

(4) The provisions of this section shall be broadly interpreted in favor of granting the exemption.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2019. Sections 3 and 4 of this act shall be in full force and effect on and after January 1, 2020.

Approved March 7, 2019

CHAPTER 54
(H.B. No. 108)

AN ACT

RELATING TO THE IDAHO BUILDING CODE ACT; AMENDING SECTION 39-4108, IDAHO CODE, TO PROVIDE FOR BUILDING PLANS EXAMINERS, TO REMOVE REFERENCE TO THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS, AND TO REVISE A PROVISION REGARDING INSPECTOR CERTIFICATION.

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

SECTION 1. That Section 39-4108, Idaho Code, be, and the same is hereby amended to read as follows:

39-4108. CERTIFICATION. After July 1, 2002, state and local government building inspectors, including state safety advisors, shall hold a valid certification as a building inspector or building plans examiner issued by the International Code Council (ICC) ~~or the International Conference of Building Officials (ICBO)~~, except that a building inspector with a valid ICC ~~or ICBO~~ residential building inspector certification may only inspect structures regulated by the International Residential Code (IRC). A building inspector with a valid ICC ~~or ICBO~~ residential building inspector certification working under the supervision of an ICC ~~or ICBO~~ ICC-certified building inspector or building plans examiner may inspect all occupancy classifications for a period not to exceed three (3) years. ~~Any building inspector or plans examiner possessing state certification as of June 30, 2002, may continue to serve as a building inspector, without renewal, until July 1, 2005, at which time certification as an ICC or ICBO building inspector or plans examiner shall be necessary to retain inspection authority~~ An inspector may be hired without a valid ICC residential building inspector certification but must obtain such certification within a period of up to six (6) months after hire and must be under the supervision of an ICC-certified building inspector or building plans examiner until such certification is obtained. Until such certification is obtained, no official adverse action may be undertaken without review and approval of an ICC-certified building inspector or building plans examiner.

Approved March 7, 2019

CHAPTER 55
(H.B. No. 132)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2019; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 336, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the State Tax Commission the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General				
Fund		\$213,600	\$286,400	\$500,000
II. PROPERTY TAX:				
FROM:				
General				
Fund	\$11,900	\$1,300		\$13,200
Seminars and Publications				
Fund	<u>0</u>	<u>40,000</u>		<u>40,000</u>
TOTAL	\$11,900	\$41,300		\$53,200
GRAND TOTAL	\$11,900	\$254,900	\$286,400	\$553,200

SECTION 2. FTP AUTHORIZATION. In addition to the authorization provided in Section 2, Chapter 336, Laws of 2018, the full-time equivalent position authorization provided to the State Tax Commission is hereby increased by twenty-five hundredths (0.25) for the period July 1, 2018, through June 30, 2019.

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

Approved March 7, 2019

CHAPTER 56
(H.B. No. 159)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COUNTY AND OUT-OF-STATE PLACEMENT PROGRAM FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE CORRECTIONAL ALTERNATIVE PLACEMENT PROGRAM FOR FISCAL YEAR 2019; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 301, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Correction for the County and Out-of-State Placement Program \$2,627,200 from the General Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of population-driven costs.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 301, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Department of Correction for the Correctional Alternative Placement Program \$15,400 from the General Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of population-driven costs.

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Medical Services Program in Section 1, Chapter 301, Laws of 2018, from the General Fund is hereby reduced by \$447,400 for operating expenditures for the period July 1, 2018, through June 30, 2019, for the purpose of population-driven costs.

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

Approved March 7, 2019

CHAPTER 57
(H.B. No. 3)

AN ACT

RELATING TO OCCUPATIONAL LICENSING OF COUNSELORS AND THERAPISTS; AMENDING SECTION 54-3405, IDAHO CODE, TO REVISE PROVISIONS REGARDING QUALIFICATIONS FOR LICENSURE; AND AMENDING SECTION 54-3411, IDAHO CODE, TO REVISE PROVISIONS REGARDING FEES.

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

SECTION 1. That Section 54-3405, Idaho Code, be, and the same is hereby amended to read as follows:

54-3405. QUALIFICATIONS FOR LICENSURE. (1) Licensure as a "licensed professional counselor" shall be restricted to persons of good moral character who have successfully completed each of the following requirements:

(1a) ~~A planned graduate program of sixty (60) semester hours which is primarily counseling in nature, six (6) semester hours of which are earned in an advanced counseling practicum, and including a graduate degree in a counseling field from an accredited university or college offering a graduate program in counseling. A master's degree or higher in counseling or a related field of study, as approved by the board, which includes completion of a practicum of supervised clinical contact as defined by rule;~~

(2b) ~~An examination if required by the board's rules;~~ and

(3c) One thousand (1,000) hours of supervised experience in counseling acceptable to the board.

(42) A license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 2. That Section 54-3411, Idaho Code, be, and the same is hereby amended to read as follows:

54-3411. FEEES ON LICENSURE. (1) The board shall establish fees for licensure under the provisions of this chapter as follows:

(1a) The fee for applications not to exceed one hundred seventy-five dollars (~~\$10075~~);

(2b) The fee for examination, when required, equal to that charged by the national examining entity plus an administration fee not to exceed twenty-five dollars (\$25.00);

(3c) The fee for endorsement not to exceed one hundred seventy-five dollars (~~\$10075~~);

(4d) The fee for the original license not to exceed one hundred seventy-five dollars (~~\$10075~~);

(5e) The fee for annual renewal not to exceed one hundred seventy-five dollars (~~\$10075~~); and

(6f) The fee for the original registration of interns not to exceed twenty-five dollars (\$25.00).

~~(72) Fees under subsection (2) or (3) of this section shall be in addition to the application fee.~~

~~(8) All fees paid pursuant to this section shall be nonrefundable except that, if a license fee is tendered but the board does not issue a license, the respective license fee shall be returned.~~

Approved March 7, 2019

CHAPTER 58
(S.B. No. 1026)

AN ACT

RELATING TO PLATS AND VACATIONS AND RECORDING OF SURVEYS; AMENDING SECTION 50-1304, IDAHO CODE, TO PROVIDE FOR A SURVEYOR'S NARRATIVE; AND AMENDING SECTION 55-1906, IDAHO CODE, TO REVISE PROVISIONS REGARDING RECORDS OF SURVEY AND TO PROVIDE THAT A RECORD OF SURVEY SHALL CONTAIN A SURVEYOR'S NARRATIVE.

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

SECTION 1. That Section 50-1304, Idaho Code, be, and the same is hereby amended to read as follows:

50-1304. ESSENTIALS OF PLATS. (1) All plats offered for record in any county shall be upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process or a process by which a copy is produced using an ink jet or digital scanning and reproduction machine with black opaque drafting film ink or fused toner that will ensure archival permanence. The copy and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink or toner is used, the surface shall be coated with a suitable substance, if required by the county where the plat is to be recorded, to assure permanent legibility. Plats shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to ensure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, acknowledgments and certifications shall appear on any of the serially numbered sheets.

(2) The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) all lots numbered consecutively in each block, and each block lettered or numbered, provided however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; (d) each and all lengths of the boundaries of each lot shall be shown, provided however, in a platted cemetery, that lengths of the boundaries of each burial lot may be shown by appropriate legend; (e) the exterior boundaries shown by distance and bearing; (f) descriptions of survey monuments; (g) point of beginning with ties to at least two (2) public land survey corner monuments in one (1) or more of the sections containing the subdivision, or in lieu of public land survey corner monuments, to two (2) monuments recognized by the county surveyor; and also, if required by the city or county governing bodies, give coordinates based on the Idaho coordinate system; (h) the easements; (i) basis of bearings, bearing and length of lines, graphic scale of plat and north arrow; and (j) subdivision name; and (k) narrative as described in section 55-1906, Idaho Code.

(3) When coordinates in the Idaho coordinate system are shown on a plat, the plat must show the national spatial reference system monuments and their coordinates used as the basis of the survey; the zone; the datum and adjustment; and the combined adjustment factor and the convergence angle and the location where they were computed.

SECTION 2. That Section 55-1906, Idaho Code, be, and the same is hereby amended to read as follows:

55-1906. RECORDS OF SURVEY -- CONTENTS. The records of survey shall, at a minimum, show:

(1) All monuments found or set or reset or replaced, or removed, describing their kind, size, location using bearings and distances, and giving other data relating thereto;

(2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of the most current corner records related to the survey being submitted and instrument numbers of corner records of corners

which are set in conjunction with the survey being submitted; basis of bearings, bearing and length of lines, graphic scale of map, and north arrow;

(3) Section, or part of section, township and range in which the survey is located and reference to surveys of record within or crossing or adjoining the survey;

(4) Certificate of survey;

(5) Ties to at least two (2) public land survey corner monuments of record in one (1) or more of the sections containing the record of survey, or, in lieu of public land survey corners, to two (2) corners of records recognized by the county surveyor. Records of survey which are within previously platted subdivisions of record need not be tied to public land survey corner monuments; and

(6) Surveyor's narrative. The narrative must explain:

(a) The purpose of the survey and how the boundary lines and other lines were established or reestablished and the reasoning behind the decisions;

(b) Which deed records, deed elements, survey records, found survey monuments, plat records, road records, or other pertinent data were controlling when establishing or reestablishing the lines; and

(c) For surveys that contain a vertical component, the narrative shall show the benchmarks used, the vertical datum referenced, and the methodology used to achieve the elevations.

Approved March 7, 2019

CHAPTER 59
(S.B. No. 1046)

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1309, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SALE OR DISPOSAL OF PERSONAL OR REAL PROPERTY.

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

SECTION 1. That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal or real property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. Personal or real property, no longer useful to the district, not exceeding five ten thousand dollars (\$510,000) in value may be sold by the highway commissioners at a private sale or at any regular board meeting without advertisement. Before disposing of all other personal or real property exceeding five ten thousand dollars (\$510,000) in value, the highway district commissioners shall first conduct a public hearing for which notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that such personal or real property is still useful to the district and that the sale or exchange should not be made. Following testimony by all interested persons at the public hearing, the highway district commissioners may adopt a resolution finding that such personal or real property is no longer useful to the district and finding that such personal or real property should be sold or exchanged and establishing procedures for the sale of such personal or real property including, but not limited to, the date and time of the sale and whether the sale will be by live public auction, by receipt of sealed bids or by some other reasonably commercial means. The hearing and sale or exchange shall not be conducted at the same regular meeting and, except as otherwise provided by law, the only notice required for such sale or exchange shall be as set forth in section 74-204, Idaho Code. Provided however, that before the district disposes of surplus real property at public sale, the district shall first notify any person who owns real property that is contiguous with the surplus real property of the district that such person has first option to purchase the surplus real property for an amount not less than the current appraised value. If more than one (1) adjoining owner wants to purchase the surplus real property, a private auction shall be held for such parties. If no owner of adjoining property exercises his or her option to buy, the district may proceed to public sale. Highway district commissioners, highway directors, employees, and their families must be personally disinterested, directly or indirectly, in the purchase of property for the use of the highway district, or in the sale of any property belonging to the highway district, or in any contract made by the highway district or other person on behalf of the highway district unless otherwise authorized by law.

(3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

Approved March 7, 2019

CHAPTER 60
(S.B. No. 1049)

AN ACT

RELATING TO ABORTION; AMENDING SECTION 18-613, IDAHO CODE, TO REVISE A PROVISION REGARDING PROHIBITED ACTS, TO DEFINE A TERM, TO REVISE DEFINITIONS, TO REMOVE A DEFINITION, TO REVISE PROVISIONS REGARDING CIVIL ACTIONS, AND TO REVISE PROVISIONS REGARDING A CERTAIN HEARING.

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

SECTION 1. That Section 18-613, Idaho Code, be, and the same is hereby amended to read as follows:

18-613. PARTIAL-BIRTH ABORTIONS PROHIBITED. (1) Prohibited acts. Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be subject to the penalties imposed in section 18-605, Idaho Code. This section shall not apply to partial-birth abortions necessary to save the life of the mother when her life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) Definitions. As used in this section:

(a) "Fetus" has the same meaning as provided in section 18-604(4), Idaho Code.

(b) "Partial-birth abortion" means an abortion in which the person performing the abortion partially:

(i) Deliberately and intentionally vaginally delivers a living fetus before killing the fetus and completing the delivery until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the physician knows will kill the partially delivered living fetus; and

(ii) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

~~(b) The phrase "vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivering into the vagina a living fetus, or a substantial portion of the fetus, for the purpose of performing a procedure the physician knows will kill the fetus, and which kills the fetus.~~

(c) "Physician" has the same meaning provided in section 18-604, Idaho Code. However, any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the prohibitions provisions described in this section.

(3) (a) Civil actions. The father of the aborted fetus, if married to the mother of the aborted fetus at the time of the partial-birth abortion; or the maternal grandparents of the aborted fetus, if the mother is not at least eighteen (18) years of age at the time of the abortion, may bring a civil action against the defendant physician to obtain appropriate relief. Provided however, that a civil action by the plaintiff father is barred if the pregnancy resulted from the father's criminal conduct by or the plaintiff father or he consented to the abortion. Further, a civil action by the plaintiff maternal grandparents is barred if the pregnancy is the result of a maternal grandparent's criminal conduct by a maternal grandparent or a maternal grandparent consented to the abortion.

(b) As used in this section, "appropriate relief" shall include:

(i) Money damages for all mental and physical injuries suffered by the plaintiff as a result of the abortion performed in violation of this section;

(ii) Money damages equal to three (3) times the cost of performing the abortion procedure.

(4) (a) Hearing. A physician accused of violating this section may request a hearing before the state board of medicine ~~to determine on whether the physician's conduct was necessary to save the mother's life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury and therefor whether performing the abortion was necessary to save the mother's life, including a life-endangering physical condition caused by or arising from the pregnancy itself.~~

(b) The findings of the board of medicine regarding the issues described in ~~subsection (4) paragraph~~ (a) of this subsection are admissible at the criminal and civil trials of the defendant physician. Upon a motion by the defendant physician, the court shall delay the beginning of the criminal and civil trials for not more than thirty (30) days to permit the hearing to take place.

(5) Immunity. A woman upon whom a partial-birth abortion is performed shall not be prosecuted for violations of this section, for conspiracy to violate this section, or for violations of section 18-603, 18-605 or 18-606, Idaho Code, in regard to the partial-birth abortion performed.

Approved March 7, 2019

CHAPTER 61
(S.B. No. 1115)

AN ACT

RELATING TO THE APPROPRIATION TO THE LEGISLATIVE BRANCH FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE BRANCH FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 266, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Legislative Branch for the Redistricting Commission \$45,000 from the General Fund to be expended for operating expenditures for the period July 1, 2018, through June 30, 2019.

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

Approved March 7, 2019

CHAPTER 62
(S.B. No. 1128)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF INFORMATION TECHNOLOGY SERVICES FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF INFORMATION TECHNOLOGY SERVICES FOR FISCAL YEAR 2019; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 335, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Office of Information Technology Services the following amounts to be expended according to the designated expense classes from the Administration and Accounting Services Fund for the period July 1, 2018, through June 30, 2019:

FOR:

Personnel Costs	\$28,400
Operating Expenditures	<u>282,000</u>
TOTAL	\$310,400

SECTION 2. FTP AUTHORIZATION. In addition to the authorization provided in Section 2, Chapter 335, Laws of 2018, the full-time equivalent position authorization provided to the Office of Information Technology Services is hereby increased by one (1.00) for the period July 1, 2018, through June 30, 2019.

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

Approved March 7, 2019

CHAPTER 63
(S.B. No. 1130)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 352, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Division of Building Safety the following amounts to be expended according to the designated expense classes from the State Regulatory Fund for the period July 1, 2018, through June 30, 2019, for the purpose of promoting awareness of damage prevention and safe digging:

FOR:

Personnel Costs	\$42,700
Operating Expenditures	<u>57,000</u>
TOTAL	\$99,700

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

Approved March 7, 2019

CHAPTER 64
(H.B. No. 2, As Amended in the Senate)

AN ACT

RELATING TO LOGGING; AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE AND THE IDAHO TRANSPORTATION BOARD MAY ISSUE SPECIFIED ORDERS UNDER CERTAIN CONDITIONS AND TO PROVIDE FOR DETAINMENT OF VEHICLES; AND AMENDING SECTION 67-2901B, IDAHO CODE, TO PROVIDE THAT LOGGING TRUCKS ARE SUBJECT TO CERTAIN ADMINISTRATIVE RULES IF TRANSPORTING ON PUBLIC HIGHWAYS, TO PROVIDE FOR ENFORCEMENT OF SUCH RULES BY THE DIRECTOR OF THE IDAHO STATE POLICE AND THE IDAHO TRANSPORTATION BOARD, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2601A, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and regional managers shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The administrator shall administer the following provisions and shall perform such additional duties as are imposed on him by law: chapter 41, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; chapter 43, title 39, Idaho Code, relating to factory built structures; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; chapter 45, title 54, Idaho Code, relating to public works construction management licensing; chapter 50, title 54, Idaho Code, relating to heating, ventilation and air conditioning systems; chapter 80, title 39, Idaho Code, relating to school building safety; chapter 59, title 33, Idaho Code, relating to Idaho school safety and security; chapter 86, title 39, Idaho Code, relating to elevator safety; and chapter 22, title 55, Idaho Code, relating to underground facilities damage prevention.

(3) The administrator shall also have the authority to perform safety inspections and safety training programs for logging operations in Idaho.

(a) When an inspection reveals evidence of a condition that poses an immediate threat of serious bodily harm or loss of life to any person, the administrator and, while on public highways, the director of the

Idaho state police and the Idaho transportation board, may issue an order to immediately stop the work, or close the facility or site, or detain the vehicle where the threat exists. The safety order shall not be rescinded until after the threat has been corrected or removed.

(b) The safety order may be enforced by the attorney general in a civil action brought in the district court for the county wherein the hazardous work site or facility is located or the vehicle is detained.

(c) Any person who knowingly fails or refuses to comply with such an order is guilty of a misdemeanor.

(d) The administrator shall promulgate rules adopting minimum logging safety standards and procedures for conducting inspections and safety training.

(e) The director of the Idaho state police and the Idaho transportation board shall have authority on public highways to stop and inspect vehicles and enforce rules promulgated by the administrator pursuant to this section.

(4) In addition to safety inspections of state-owned public buildings conducted under chapter 23, title 67, Idaho Code, the administrator may conduct safety inspections of buildings owned or maintained by political subdivisions of the state upon receipt of a written request from the governing body of that political subdivision, subject to the availability of division resources and the requesting entity's agreement to pay the division's current fees for such an inspection.

(a) The findings of the inspection shall be reported to the governing body of the political subdivision.

(b) The administrator may promulgate rules adopting minimum safety standards and procedures for conducting such inspections, as well as fees for performing the same.

(c) For purposes of this section, "political subdivision" means any governmental unit or special district of the state of Idaho other than public school districts.

(5) In administering the laws regulating professions, trades and occupations that are devolved for administration upon the division, and in addition to the authority granted to the administrator by the laws and rules of the agencies and entities within the division, the administrator may:

(a) Revise the operating structure of the division as needed to provide efficient and appropriate services to the various professions, trades, occupations and programs administered within the division;

(b) Conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities; prescribe rules for a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; issue registrations, licenses and certificates; and until fees are established in rule, the administrator shall charge a fee of seventy-five dollars (\$75.00) for each examination administered;

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to assess costs and fees incurred in the investigation and prosecution or defense of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the provisions of section 12-117(5), Idaho Code, when applicable, the contested case provisions of chapter 52, title 67, Idaho Code, and

the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section, except for those related to underground facilities damage prevention contained in chapter 22, title 55, Idaho Code, and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(6) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(7) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

SECTION 2. That Section 67-2901B, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901B. INSPECTION OF MOTOR CARRIERS -- EXEMPTIONS -- CERTIFICATION OF REPAIR -- COMPLIANCE REVIEW -- PENALTIES. (1) All motor carriers, except those exempted under the provisions of subsection (2) of this section, are subject to compliance review and inspection by authorized state police employees for compliance with federal motor carrier safety and hazardous materials regulations and for compliance with applicable Idaho laws and rules promulgated by the director pursuant to the provisions of section 67-2901A, Idaho Code. A motor carrier shall submit any vehicle to a safety inspection when requested to do so by an authorized state police employee. Such inspections shall comply, to the extent possible, with national and industry standards for truck inspections and truck safety as adopted by the commercial vehicle safety alliance. A written inspection report shall be provided to the owner, operator or agent of the vehicle following any inspection review pursuant to this section.

(2) The following intrastate motor carriers shall be exempt from safety inspections and compliance reviews:

(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

(i) Wholly owned and operated by such school; or

(ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or

(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(e) Motor vehicles used exclusively in the distribution of newspapers; or

(f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or

(g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or

(h) The transportation of agricultural products, including fresh fruits and vegetables, livestock, livestock feed or manure at any time of the year; or

(i) Motor-propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or

(j) Motor carriers transporting products of the forest at any time of the year; provided however, that logging trucks are subject to the Idaho division of building safety's administrative rules relating to Idaho minimum safety standards and practices for logging trucks during transportation on Idaho's public highways, which rules shall be enforced on Idaho's public highways by the director of the Idaho state police and the Idaho transportation board; or

(k) Motor carriers transporting products of the mine, including sand, gravel and aggregates thereof, except petroleum products and wet concrete; or

(l) Motor carriers transporting household goods as defined by the federal surface transportation board; or

(m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."

(3) A motor carrier which has received a written inspection report prepared pursuant to subsection (1) of this section indicating that his vehicle does not comply with applicable federal laws or regulations or Idaho laws or rules, shall certify in writing to the director or his designee within fifteen (15) days of his receipt of the inspection report that he has brought his vehicle into compliance with said laws, regulations or rules. The director or his designee may assess an administrative penalty to any person who does not comply with the certification provisions of this section or who makes a false certification. The penalty shall not exceed one hundred dollars (\$100) for failure to comply with an inspection report or for making a false certification. If an assessment is contested, the director shall comply with the provisions governing contested cases under the administrative procedure act, chapter 52, title 67, Idaho Code.

(4) Any motor carrier subject to rules promulgated under the provisions of section 67-2901A, Idaho Code, shall submit to a compliance review upon request of the director or any officer designated by him, by providing for inspection or copying at any reasonable time, the records, books, papers and documents relating to the safety management systems or program of such motor carrier.

(5) Any penalties collected pursuant to subsection (3) of this section shall be deposited to the state highway account.

CHAPTER 65
(H.B. No. 89)

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-513F, IDAHO CODE, TO DESIGNATE THE PORTION OF U.S. HIGHWAY 20 LOCATED IN IDAHO AS THE IDAHO MEDAL OF HONOR HIGHWAY.

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

SECTION 1. That Chapter 5, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-513F, Idaho Code, and to read as follows:

40-513F. DESIGNATION OF THE IDAHO MEDAL OF HONOR HIGHWAY. That portion of U.S. highway 20 located in Idaho shall also be known as the "Idaho Medal of Honor Highway." The Idaho transportation department shall design and construct signs indicating the designation as the "Idaho Medal of Honor Highway" and any other appropriate information. The department shall erect a sign at each end of the highway and markers at intermediate sites along the highway that the department determines are appropriate. The department is required to design, construct, and erect the signs and markers only to the extent that less than thirty thousand dollars (\$30,000) of existing dedicated funds are provided for this purpose as determined by the transportation board. Design of the signs should be similar to the signs currently erected on U.S. highway 20 at the time of enactment of this legislation. Signs shall identify the highway as the "Idaho Medal of Honor Highway" and include the three (3) different designs of the medal of honor.

Approved March 8, 2019

CHAPTER 66
(S.B. No. 1008)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSE REQUIREMENTS AND RECIPROCITY; AMENDING SECTION 54-1008, IDAHO CODE, TO REVISE A PROVISION REGARDING THE DURATION OF ELECTRICAL APPRENTICE REGISTRATIONS; AMENDING SECTION 54-1013, IDAHO CODE, TO PROVIDE FOR REVIVAL OF EXPIRED REGISTRATIONS; AND AMENDING SECTION 54-1014, IDAHO CODE, TO REVISE LICENSE AND REGISTRATION FEES.

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

SECTION 1. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, limited electrical installer or master electrician as defined in section 54-1003A, Idaho Code, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting or limited electrical contracting as defined in section 54-1003A, Idaho Code.

(2) An apprentice electrician, as defined in section 54-1003A, Idaho Code, may take the journeyman's examination if he has completed the required related instruction for electrical apprentices as approved by the Idaho state board for career technical education, completion of which shall be evidenced by a certificate from an approved provider, and has worked the number of hours as prescribed by the Idaho electrical board, provided that for all the time he is claiming to have worked as an apprentice electrician, the apprentice shall have been registered with the division of building safety as an apprentice. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this chapter, and may also by rule establish requirements relative to the manner of registration renewal, verification of employment, the number of instructional hours completed, continuation training and the number of hours worked.

~~(a) All verification of employment forms submitted by an apprentice shall be entered into and maintained in the apprentice's file by the division of building safety. The division of building safety shall provide the apprentice online access to this information.~~

~~(b) An apprentice who has completed the number of instructional hours and has not taken or passed the journeyman's examination within two (2) years of completion of the instructional training hours shall provide proof of continuation training as set by rule of the electrical board.~~

~~(c) An apprentice who has not advanced in apprenticeship training for a period of two (2) years shall complete continuation training as set by rule of the electrical board.~~

(3) Any person who has worked as a licensed journeyman for a period of not less than four (4) years and who has worked the number of hours as prescribed by rule of the board as a licensed journeyman electrician shall be considered as qualified to apply for a master electrician's license in this state. The Idaho electrical board, in establishing by rule the requirements for a master electrician's license, shall also take into account the applicant's performance as a journeyman electrician.

~~(4) Any person with out-of-state experience who has worked as a journeyman electrician or as an apprentice electrician for a period of four (4) years, and who has met such other requirements as established by rule of the board Notwithstanding subsection (2) of this section, any person who can demonstrate eight (8) years of work experience, defined as a minimum of sixteen thousand (16,000) hours, making electrical installations on the job, shall be considered as qualified to apply for a journeyman electrician's license in this state.~~

(5) To the extent that other states that provide for the licensing of electricians provide for similar action, the require qualifications at least equal to those contained in this chapter, the administrator may enter reciprocal agreements with such other states to grant licenses to electricians licensed by such other states. The administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

(6) All verification of employment forms submitted by an individual seeking electrical licensing or registration shall be entered into and maintained in the individual's file by the division of building safety. The division of building safety shall provide the individual with online access to this information.

SECTION 2. That Section 54-1008, Idaho Code, be, and the same is hereby amended to read as follows:

54-1008. DURATION OF LICENSE. (1) All licenses, including license renewals, for master electricians, journeyman electricians and limited electrical installers shall be issued for a period of three (3) years and shall expire three (3) years from the date of issue unless renewed, revoked or suspended.

(2) Electrical contractor and limited electrical contractor licenses shall be issued for a period of one (1) year and shall expire one (1) year from the date of issue unless renewed, revoked or suspended.

(3) Electrical apprentice registrations issued or renewed shall be issued for a period of ~~five~~ one (51) years.

(4) Limited electrical installer trainee registrations shall be issued for a period of three (3) years.

(5) Facility account licenses shall be issued and renewed for a period of one (1) year.

(6) Each licensing period and each registration period shall end at midnight on the last day of the month of the licensing or registration period. Licenses and registrations not renewed by this date shall have expired.

(7) The board shall promulgate rules to provide for a staggered system of issuing and renewing licenses.

SECTION 3. That Section 54-1013, Idaho Code, be, and the same is hereby amended to read as follows:

54-1013. RENEWAL OF LICENSES OR REGISTRATIONS -- INACTIVE LICENSES. (1) A license or registration once issued under this chapter, unless revoked or suspended as herein provided, may be renewed at any time during the final month of the licensing period on the payment of the renewal fee herein specified, proof of satisfaction of applicable continuing education requirements as established by the electrical board, proof of satisfaction of applicable apprentice and specialty trainee instruction and work requirements as established by the electrical board, and provided that all outstanding civil penalties, and permit or other fees, have been paid in full, and all outstanding correction notices have been satisfactorily resolved. For electrical contractors and specialty electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(2) Any license or registration that has expired may be revived at any time within one (1) year from the last day of the final month of the licensing period, by payment of the revival fee herein specified, together with all outstanding civil penalties, and permit or other fees and penalties, and upon proof that outstanding correction notices have been satisfactorily resolved. For electrical contractors and limited electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(3) Certificates of competency issued prior to July 1, 1961, shall, for the purpose of this chapter, be considered as licenses and may be renewed or revived as herein provided.

(4) The administrator may renew, on an inactive basis, the license of an electrical contractor or limited electrical contractor who is not engaged in electrical contracting in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an amount not to exceed one hundred fifty dollars (\$150). Each inactive license shall be issued for a period of one (1) year. An electrical contractor or limited elec-

trical contractor holding an inactive license may not engage in the practice of electrical contracting or limited electrical contracting in this state. If an electrical contractor or limited electrical contractor wishes to convert his inactive license to an active license, he may do so by paying a processing fee of thirty dollars (\$30.00) and providing proof of the required liability insurance and applicable worker's compensation insurance.

SECTION 4. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The administrator of the division of building safety shall charge the following fees:

(1) Application for license or registration	\$15.00
(2) One-year licenses and registration, in accordance with sections 54-1008 and 54-1013, Idaho Code:	
(a) Electrical contractor license	\$125.00
(b) Electrical contractor license renewal	100.00
(c) Electrical contractor license revival	125.00
(d) Limited electrical contractor license	125.00
(e) Limited electrical contractor license renewal	100.00
(f) Limited electrical contractor license revival	125.00
(g) Facility account license	125.00
(h) <u>Apprentice electrician registration</u>	15.00
(i) <u>At the time the apprentice applies for a journeyman electrician license, the pro rata value of any remaining time on an apprentice electrician working license shall be credited toward the purchase of the journeyman electrician license.</u>	
(i) <u>Apprentice electrician registration renewal</u>	15.00
(j) <u>Apprentice electrician registration revival</u>	15.00
(3) Three-year licenses and registration, in accordance with sections 54-1008 and 54-1013, Idaho Code:	
(a) Master electrician license	\$65.00
(b) Master electrician license renewal	45.00
(c) Master electrician license revival	55.00
(d) Journeyman electrician license	55.00
(e) Journeyman electrician license renewal	45.00
(f) Journeyman electrician license revival	55.00
(g) Limited electrical installer license	55.00
(h) Limited electrical installer license renewal	45.00
(i) Limited electrical installer license revival	55.00
(j) Limited electrical installer trainee registration and working license	30.00
(i) At the time the limited electrical installer trainee applies for a limited electrical installer license, the pro rata value of any remaining time on a limited electrical installer trainee working license shall be credited toward the purchase of the limited electrical installer license.	
(k) <u>Limited electrical installer trainee registration renewal</u>	25.00
(l) <u>Limited electrical installer trainee registration revival</u>	30.00
(4) Five-year licenses, in accordance with sections 54-1008 and 54-1013, Idaho Code:	
(a) Apprentice electrician registration and working license	\$50.00
 (i) At the time the apprentice applies for a journeyman electrician license, the pro rata value of any remaining time on an apprentice electrician working license shall be credited toward the purchase of the journeyman electrician license.	

CHAPTER 67
(S.B. No. 1047)

AN ACT

RELATING TO PURCHASING BY POLITICAL SUBDIVISIONS; REPEALING SECTION 67-2807, IDAHO CODE, RELATING TO JOINT PURCHASING AGREEMENTS; AND AMENDING CHAPTER 28, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2807, IDAHO CODE, TO PROVIDE FOR COOPERATIVE PURCHASING.

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

SECTION 1. That Section 67-2807, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 28, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2807, Idaho Code, and to read as follows:

67-2807. COOPERATIVE PURCHASING. With the approval of its governing board, a political subdivision may participate in cooperative purchasing agreements with the state of Idaho, other Idaho political subdivisions, other government entities, or associations thereof. Political subdivisions may also participate in cooperative purchasing programs established by any association that offers its goods or services as a result of competitive solicitation processes. Goods or services procured by participation in such cooperative agreements or programs shall be deemed to have been acquired in accordance with the requirements of this chapter.

Approved March 11, 2019

CHAPTER 68
(S.B. No. 1028)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-451, IDAHO CODE, TO PROVIDE THAT CERTAIN PSYCHOLOGICAL INJURIES AFFECTING FIRST RESPONDERS SHALL BE COMPENSABLE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 72-451, Idaho Code, be, and the same is hereby amended to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(1a) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(18)(a) through (18)(c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where:

(i) ~~It~~ results in resultant physical injury ~~so~~ as long as the psychological mishap or event meets the other criteria of this section ~~and~~;

- (ii) It is readily recognized and identifiable as having occurred in the workplace; and
- (iii) It must be the product of a sudden and extraordinary event;
and

(2b) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination; and

(3c) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section; and

(4d) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense; and

(5e) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the terminology and criteria of the American psychiatric association's diagnostic and statistics statistical manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist, or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(6f) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

(2) Nothing herein in subsection (1) of this section shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

(3) The provisions of subsection (1) of this section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

(4) Notwithstanding subsection (1) of this section, post-traumatic stress injury suffered by a first responder is a compensable injury or occupational disease when the following conditions are met:

(a) The first responder is examined and subsequently diagnosed with post-traumatic stress injury by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in post-traumatic stress injury; and

(b) Clear and convincing evidence indicates that the post-traumatic stress injury was caused by an event or events arising out of and in the course of the first responder's employment.

(5) No compensation shall be paid for such injuries described in subsection (2) of this section arising from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation, or employment termination.

(6) As used in subsection (4) of this section:

(a) "Post-traumatic stress injury" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder or post-traumatic stress injury specified by the American psychiatric association's diagnostic and statistical manual of mental disorders, fifth edition revised, or any successor manual promulgated by the American psychiatric association.

(b) "First responder" means:

- (i) A peace officer as defined in section 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho state police;

(ii) A firefighter as defined in sections 59-1391(f) and 72-1403(A), Idaho Code;

(iii) A volunteer emergency responder as defined in section 72-102(32), Idaho Code;

(iv) An emergency medical service provider, or EMS provider, certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare; and

(v) An emergency communications officer as defined in section 19-5101(f), Idaho Code.

(7) Subsections (4) through (6) of this section are effective for first responders with dates of injury or manifestations of occupational disease on or after July 1, 2019.

SECTION 2. The provisions of this act shall be null, void, and of no force and effect on and after July 1, 2023.

Approved March 12, 2019

CHAPTER 69
(H.B. No. 174)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2019; REDUCING THE APPROPRIATION TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 344, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs for the Family Medicine Residencies Program \$235,000 from the General Fund to be expended for personnel costs for the period July 1, 2018, through June 30, 2019.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs for the Family Medicine Residencies Program in Section 1, Chapter 344, Laws of 2018, from the General Fund is hereby reduced by \$235,000 for trustee and benefit payments for the period July 1, 2018, through June 30, 2019.

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

Approved March 12, 2019

CHAPTER 70
(H.B. No. 91)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8203, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-8203, Idaho Code, be, and the same is hereby amended to read as follows:

67-8203. DEFINITIONS. As used in this chapter:

(1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the governmental entity.

(2) "Appropriate" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.

(3) "Capital improvements" means improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility.

(4) "Capital improvement element" means a component of a comprehensive plan adopted pursuant to chapter 65, title 67, Idaho Code, which component meets the requirements of a capital improvements plan pursuant to this chapter.

(5) "Capital improvements plan" means a plan adopted pursuant to this chapter that identifies capital improvements for which development impact fees may be used as a funding source.

(6) "Developer" means any person or legal entity undertaking development, including a party that undertakes the subdivision of property pursuant to sections 50-1301 through 50-1334, Idaho Code.

(7) "Development" means any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the subdivision of property that would permit any change in the use, character or appearance of land. As used in this chapter, "development" shall not include activities that would otherwise be subject to payment of the development impact fee if such activities are undertaken by a taxing district, as defined in section 63-201, Idaho Code, or by an authorized public charter school, as defined in section 33-5202A, Idaho Code, in the course of carrying out the ~~taxing district's public~~ its statutory responsibilities, unless the adopted impact fee ordinance expressly includes taxing districts or public charter schools as being subject to development impact fees.

(8) "Development approval" means any written authorization from a governmental entity which ~~that~~ authorizes the commencement of a development.

(9) "Development impact fee" means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:

- (a) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
- (b) Connection or hookup charges;
- (c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

(d) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to section 67-8209(3), Idaho Code, for credit or reimbursement.

(10) "Development requirement" means a requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

(11) "Extraordinary costs" means those costs incurred as a result of an extraordinary impact.

(12) "Extraordinary impact" means an impact which that is reasonably determined by the governmental entity to:

(ia) ~~Result~~ result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by section 67-8214(2), Idaho Code; or

(iib) ~~Result~~ result in the need for system improvements which that are not identified in the capital improvements plan.

(13) "Fee payer" means that person who pays or is required to pay a development impact fee.

(14) "Governmental entity" means any unit of local government that is empowered in this enabling legislation to adopt a development impact fee ordinance.

(15) "Impact fee." See development impact fee.

(16) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

(17) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(18) "Manufactured home" means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401, et seq.

(19) "Modular building" is as defined in section 39-4301, Idaho Code.

(20) "Present value" means the total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction or money.

(21) "Project" means a particular development on an identified parcel of land.

(22) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

(23) "Proportionate share" means that portion of the cost of system improvements determined pursuant to section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

(24) "Public facilities" means:

- (a) Water supply production, treatment, storage and distribution facilities;
- (b) Wastewater collection, treatment and disposal facilities;
- (c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;
- (d) Storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
- (e) Parks, open space and recreation areas, and related capital improvements; and
- (f) Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities.

(25) "Recreational vehicle" means a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(26) "Service area" means any defined geographic area identified by a governmental entity or by intergovernmental agreement in which specific public facilities provide service to development within the area defined, on the basis of sound planning or engineering principles or both.

(27) "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(28) "System improvements," in contrast to project improvements, means capital improvements to public facilities which are designed to provide service to a service area including, without limitation, the type of improvements described in section 50-1703, Idaho Code.

(29) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in section 50-1702(h), Idaho Code, to provide additional public facilities needed to serve new growth and development. For clarification, system improvement costs do not include:

- (a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;
- (b) Repair, operation or maintenance of existing or new capital improvements;
- (c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- (d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;
- (e) Administrative and operating costs of the governmental entity unless such costs are attributable to development of the capital improvements plan, as provided in section 67-8208, Idaho Code; or
- (f) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

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

CHAPTER 71
(H.B. No. 90)

AN ACT

RELATING TO RECREATIONAL ACTIVITIES; AMENDING SECTION 67-7101, IDAHO CODE, TO REVISE THE DEFINITIONS OF "ATV" AND "UTV" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" or "ATV" means any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty-five (505) inches or less in width, having a wheelbase of sixty-one (61) inches or less, has handlebar steering and a seat designed to be straddled by the operator.

(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(3) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.

(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, utility type vehicles or all-terrain vehicles.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(7) "Director" means the director of the department of parks and recreation.

(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section)

(9) "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractors, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

(10) "Off-highway vehicle" means an all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in this section.

(11) "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile.

(12) "Owner" means every person holding record title to a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(13) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

(14) "Public roadway" means all portions of any highway ~~which are~~ controlled by an authority other than the Idaho transportation department.

(15) "Snowmobile" means any self-propelled vehicle under two thousand (2,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.

(16) "Specialty off-highway vehicle" means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle or motor-bike as defined in this section. The vehicle classification provided for in this subsection shall become effective on January 1, 2010.

(17) "Utility type vehicle" or "UTV" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than ~~seventy-four~~ eighty (7480) inches, ~~maximum weight less than two thousand (2,000) pounds,~~ and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

(18) "Vendor" means any entity authorized by the department to sell recreational certificates of number.

(19) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing account.

Approved March 12, 2019

CHAPTER 72
(H.B. No. 80)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1108, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN AGREEMENTS AND COMPENSATION FOR DAMAGE BY PRONGHORN ANTELOPE, ELK, DEER AND MOOSE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1108, Idaho Code, be, and the same is hereby amended to read as follows:

36-1108. CONTROL OF DAMAGE BY PRONGHORN ANTELOPE, ELK, DEER OR MOOSE -- COMPENSATION FOR DAMAGES. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from wildlife or to mitigate damages by wildlife. When any pronghorn antelope, elk, deer or moose is doing damage to or is destroying any property or is about to do so, the owner or lessee thereof may make complaint and verbally or electronically report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well-founded and the property of the complainant is being or is likely to be damaged or destroyed by such pronghorn antelope, elk, deer or moose, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such animals as will stop the damage to said property. Any animals so taken shall remain the property of the state and shall be turned over to the director. The director may provide written authorization for possession of animals so taken.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such animals. Any animals so taken shall remain the property of the state and shall be turned over to the director. The director may provide written authorization for possession of animals so taken.

3. Make an agreement with the owner or lessee to allow continued use of lands by the animals where damage by them has occurred to stored, growing or matured crops, prepared seedbed ground, or irrigation equipment on private property whether owned or leased. The agreement made under the provisions of this subsection may provide for financial compensation to the owner or lessee. If made, financial compensation under the provisions of this subsection shall be governed by the provisions of section 36-115, Idaho Code, and shall not be in addition to any payments for the same crop losses from any other source. Compensation for damages under the provisions of this subsection shall be available for damages done to private lands, whether owned or leased, if the owner or lessee allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or as a measure of response to depredation. This provision shall not negate the provisions of section 36-1603, Idaho Code, relating to the necessity of obtaining permission to enter private land. If necessary, the arbitration panel provided for in subsection (b) of this section shall determine the reasonableness of access allowed.

(b) 1. In order to establish eligibility for submission of claims for damages, persons suffering crop, prepared seedbed ground, or irrigation equipment damages on privately owned or leased land caused by pronghorn antelope, elk, deer or moose must:

(A) Notify the department within seventy-two (72) hours of discovery of damage.

(B) Follow up verbal notification with a written, which may be electronic, notice within twenty (20) days of the discovery of damages.

(C) The department shall not be held liable or accountable for any damages occurring more than twenty (20) days prior to the initial notification of damage. However, the department may extend the period up to thirty (30) days under exceptional circumstances.

The owner or lessee must have allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or as a measure of response to depredation, provided such access does not impact on their operations, or the claim for damages may be disallowed. Compensation for crop, prepared seedbed ground, or irrigation equipment damages claims shall not be in addition to any payments for the same crop losses from any other source and shall not include fence or other types of property damage. While fences and ~~irrigation equipment~~ are not subject to claim for payment, the department is allowed to provide support and assistance, including provision of materials to design, construct, and maintain fences for control of depredation. The notice of damages caused must be in written form, shall be in the form of a claim for damages substantially the same as required by section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be at least seven hundred fifty dollars (\$750). The claim shall not be amended after it is filed, provided however, that a claimant may file an additional claim in the event additional damage occurs subsequent to filing the initial claim. The department shall prepare and make available suitable forms for notice and claim for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred, with allowance for submission within the first sixty

(60) days of the following fiscal year if the claim occurred within the last sixty (60) days of the previous fiscal year. Any person submitting a fraudulent claim shall be prosecuted for a felony as provided in section 18-2706, Idaho Code. For purposes of this subsection, crop damages shall mean damage to plants grown or stored for profit and exclude ornamental plants, and damage to prepared seedbed ground or irrigation equipment shall include necessary parts and documented labor.

2. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-115, Idaho Code, or order it paid as provided in section 36-115, Idaho Code. Failure on the part of the owner or lessee to allow on-site access for inspection and investigation of alleged losses shall void the claim for damages.

3. In the event the owner or lessee and the department fail to agree on the amount of damages within fifteen (15) business days of the written claim, either party may elect to retain the services of an independent certified insurance adjuster licensed in the state of Idaho to view the affected property and determine the amount of damages. In the event the owner or lessee and the department fail to agree on the amount of damages and neither party elects to retain the services of an independent certified insurance adjuster, provisions of subsection ~~(b)~~ paragraph 4. of this subsection shall apply. The independent certified adjuster shall complete his review and determination within twenty (20) days from the date he is retained, and will report his determination in writing by certified mail to the department and to the owner or lessee. Neither the owner or lessee, nor the department, shall disturb the affected property prior to review and determination by the independent insurance adjuster. Costs associated with the services of the independent insurance adjuster shall be divided equally between the owner or lessee and the department, subject to reapportionment of the costs by an arbitration panel pursuant to the provisions of subsection ~~(b)~~ paragraph 4. of this subsection. If the department, or the owner or lessee rejects the determination of the adjuster, they shall notify the other party in writing of the rejection within five (5) business days of receipt of the adjuster's determination. In the event that either party rejects the adjuster's determination, the provisions of subsection ~~(b)~~ paragraph 4. of this subsection shall apply.

4. Within five (5) business days of a rejection of an adjuster's determination of damages or failure of the owner or lessee and the department to agree on damages when a certified insurance adjuster is not used, the director must convene an arbitration panel. To convene an arbitration panel, the director must, within five (5) business days, appoint the department's representative and notify the landholder of the appointment. The landholder(s) shall, within the next five (5) business days following such notice from the department, appoint his representative and notify the department of the appointment. Within the next five (5) business days, the department representative and the landholder must mutually appoint the third arbitrator. The arbitration panel shall consist of three (3) members, as follows:

(A) The director of the department of fish and game or his designee;

(B) The owner or his designee, or the lessee or his designee;

(C) One (1) member selected by the two (2) members above.

The panel shall convene within thirty (30) days of the selection of the third arbitrator, and render its decision within fourteen (14) days after the hearing. When convened, the arbitration panel shall have the same authority to make on-site inspections as the department. The owner or lessee shall be responsible for payment of the expenses of his appointee; the director shall pay the expenses of his appointee from

the expendable big game depredation fund; and the expenses of the third member shall be a joint responsibility of the owner or lessee, and the department. Provided however, the panel is authorized to review the costs associated with retaining the independent insurance adjuster and to determine whether those costs should instead be borne solely by the owner or lessee, solely by the department, or be apportioned between the owner or lessee and the department. In cases where an independent insurance adjuster was used, the party electing to use the adjuster shall assume the insurance adjuster's determination of damage as their estimate of damage. The panel shall consider the claim submitted by the owner or lessee, and the estimate of damages submitted by the department, and shall select one (1) amount or the other as being the closest to the actual damages sustained by the claimant. The arbitration panel shall report its decision in writing to both the owner or lessee and to the department within ten (10) days of the decision, and the decision of the panel shall be binding on the owner or lessee and the department. The fish and game advisory committee shall develop guidelines to govern arbitration procedures in accordance with chapter 52, title 67, Idaho Code.

(c) Any claim received by the department under the provisions of subsection (b) of this section must be processed by the department within sixty (60) calendar days of receipt. If the claim is approved for payment, payment must be made within forty-five (45) calendar days of such approval. Any damage claim determination by an independent insurance adjuster pursuant to subsection (b)3. of this section, accepted by the parties, must be paid by the department within forty-five (45) calendar days of the determination. If the claim is arbitrated, the arbitration must be completed within one hundred eighty (180) calendar days of filing the claim for such damages.

Approved March 12, 2019

CHAPTER 73
(H.B. No. 75)

AN ACT

RELATING TO RECREATIONAL ACTIVITIES; REPEALING SECTION 67-7124, IDAHO CODE, RELATING TO A NONRESIDENT CERTIFICATE EXEMPTION; AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7124, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING NONRESIDENT OFF-HIGHWAY VEHICLE USER CERTIFICATES; AND AMENDING SECTION 67-7126, IDAHO CODE, TO PROVIDE FOR USER CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-7124, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 71, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-7124, Idaho Code, and to read as follows:

67-7124. OFF-HIGHWAY VEHICLES -- NONRESIDENT -- OFF-HIGHWAY VEHICLE USER CERTIFICATE REQUIRED. (1) As of January 1, 2020, before operating within Idaho, any nonresident owner or applicant of a noncommercial off-highway vehicle shall be required to obtain a nonresident off-highway vehicle (OHV) user certificate. A fee of twelve dollars (\$12.00) shall be imposed for the issuance of a nonresident OHV user certificate. The validation sticker shall be displayed in the same manner as provided in section

67-7122, Idaho Code. Nonresident OHV user certificates shall be valid January 1 through December 31. Issuance and administration of nonresident OHV user certificates shall be conducted in the same manner as provided in section 67-7122, Idaho Code, for numbering off-highway vehicles.

(2) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

(3) Nonresidents shall be allowed to purchase a restricted vehicle license plate pursuant to section 49-402(4), Idaho Code.

SECTION 3. That Section 67-7126, Idaho Code, be, and the same is hereby amended to read as follows:

67-7126. ESTABLISHMENT OF ACCOUNT -- DISTRIBUTION OF FEES. There is established in the state treasurer's office an account to be known and designated as the "motorbike recreation account." The twelve dollar (\$12.00) fee collected for off-highway vehicle number certificates and user certificates under the provisions of section 67-7124, Idaho Code, shall be allocated as follows:

(1) Vendors shall charge and retain one dollar and fifty cents (\$1.50) for a handling fee;

(2) Up to fifteen percent (15%) shall be allotted to the department for administration and for the production of number certificates and validation stickers, which moneys shall be placed in the motorbike recreation account. The department shall annually publish a report specifically identifying the uses of account moneys;

(3) One dollar (\$1.00) shall be deposited into the off-highway vehicle law enforcement fund. Moneys in said fund shall be paid and used as follows:

(a) Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program recognized by the department shall receive moneys from the fund based upon a formula as provided in rule promulgated by the board; and

(b) Moneys from the fund shall be used only for off-highway-related law enforcement activities; and

(4) One dollar (\$1.00) shall be allocated to the Idaho department of lands to provide off-highway vehicle opportunities and to repair damage directly related to off-highway vehicle use. The department of lands shall annually publish a report specifically identifying the uses of moneys allocated pursuant to this subsection; and

(5) The remaining funds shall be transmitted to the state treasurer's office for deposit to the credit of the motorbike recreation account, all such moneys to be transmitted to the state treasurer on or before the tenth day of each month.

Collection of fees for off-highway vehicle number certificates shall not impose any additional liability on the state of Idaho or any of its political subdivisions or upon the employees of the state and of its political subdivisions, and those entities and persons shall retain the limitations of liability provided by section 36-1604, Idaho Code, regardless of the use of such fees.

Approved March 12, 2019

CHAPTER 74
(H.B. No. 73)

AN ACT

RELATING TO THE DIVISION OF FINANCIAL MANAGEMENT; AMENDING SECTION 67-5202, IDAHO CODE, TO ESTABLISH THE OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR IN THE DIVISION OF FINANCIAL MANAGEMENT, TO PROVIDE THAT THE COORDINATOR SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE ADMINISTRATOR OF THE DIVISION OF FINANCIAL MANAGEMENT, TO REMOVE OBSOLETE LANGUAGE, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5202, Idaho Code, be, and the same is hereby amended to read as follows:

67-5202. OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR. (1) There is hereby established the office of the administrative rules coordinator in the ~~department~~ division of administration financial management. The coordinator shall be a nonclassified employee and shall be appointed by and serve at the pleasure of the ~~director~~ administrator of the ~~department~~ division of administration financial management. All other employees of the office of the administrative rules ~~employed on July 1, 1996, shall be classified employees, but upon their termination their positions and any positions vacant upon July 1, 1996,~~ coordinator shall be nonclassified positions, and any persons employed to fill positions in the office of the administrative rules coordinator thereafter shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.

(3) The coordinator shall receive all notices and rules required in this chapter to be published in the bulletin or the administrative code. The coordinator shall prescribe a uniform style, form, and numbering system which shall apply to all rules adopted by all agencies. The coordinator shall review all submitted rules for style, form, and numbering, and may return a rule that is not in proper style, form, or number.

Approved March 12, 2019

CHAPTER 75
(H.B. No. 68)

AN ACT

RELATING TO RETIREMENT; AMENDING SECTION 59-1342, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CALCULATION OF PUBLIC EMPLOYEE RETIREMENT BENEFITS FOR STATE LEGISLATORS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 59-1346, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CALCULATION OF EARLY RETIREMENT ALLOWANCES FOR STATE LEGISLATORS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 59-1342, Idaho Code, be, and the same is hereby amended to read as follows:

59-1342. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service for which a member was not classified as a police member or firefighter shall equal one and two-thirds percent (1 2/3%) of the member's average monthly salary. Effective October 1, 1992, the annual amount of accrued retirement allowance for all service for which a member was not classified as a police member or firefighter shall equal one and seventy-five hundredths percent (1.75%) of the member's average monthly salary; effective October 1, 1993, the annual amount of accrued retirement allowance shall equal one and eight hundred thirty-three thousandths percent (1.833%) of the member's average monthly salary; effective October 1, 1994, the annual amount of accrued retirement allowance shall equal one and nine hundred seventeen thousandths percent (1.917%); and effective June 30, 2000, the annual amount of accrued retirement allowance shall equal two percent (2%) of the member's average monthly salary. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect on the date of the final contribution by the member. The annual amount of initial service retirement allowance of such a member shall equal paragraph (a) or (b) of this subsection, whichever is greater:

(a) The member's accrued retirement allowance; or

(b) Five dollars (\$5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1355, Idaho Code, between July 1, 1974, and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service for which a member was classified as a police member or firefighter shall equal two percent (2%) of the member's average monthly salary. Effective October 1, 1992, the annual amount of accrued retirement allowance for all service for which a member was classified as a police member or firefighter shall equal two and seventy-five thousandths percent (2.075%) of the member's average monthly salary; effective October 1, 1993, the annual amount of accrued retirement allowance shall equal two and fifteen hundredths percent (2.15%) of the member's average monthly salary; effective October 1, 1994, the annual amount of accrued retirement allowance shall equal two and two hundred twenty-five thousandths percent (2.225%); and effective June 30, 2000, the annual amount of accrued retirement allowance shall equal two and three-tenths percent (2.3%) of the member's average monthly salary. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be

calculated on the amounts, terms and conditions in effect on the date of the final contribution by the member. The annual amount of initial service retirement allowance of such a member shall equal paragraph (a) or (b) of this subsection, whichever is greater:

(a) The member's accrued retirement allowance; or

(b) Six dollars (\$6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1355, Idaho Code, between July 1, 1974, and the first of the month following the member's final contribution.

(3) ~~The p~~Provisions of this section shall be applicable to members and contingent annuitants of the retirement system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) of this section shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to the member's beneficiaries shall never be less than they would have received under this chapter as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) (a) If the majority of a member's credited service is as an elected official or as an appointed official, ~~except as including~~ a member of the Idaho legislature who first took office after July 1, 2019, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work-station workstation for the employer twenty (20) hours per week or more during the term of office, that member's initial service retirement allowance shall be the sum of:

(ai) That amount computed under subsection (1) and/or (2) of this section for only those months of service as an elected or an appointed official that are in excess of the months of other credited service, without consideration of any other credited service; and

(~~b~~ii) That accrued service retirement allowance that is computed from an average monthly salary for salary received during the member's total months of credited service excluding those excess months referenced in ~~subsection (5)(a)~~ subparagraph (i) of this section paragraph.

(b) The initial service retirement allowance of members of the Idaho legislature who first took office on or before July 1, 2019, will be computed under subsection (1) and/or (2) of this section, on the basis of their total months of credited service.

(6) In no case, however, will a member's initial service retirement benefit be equal to more than the member's accrued benefit as of May 1, 1990, or one hundred percent (100%) of the member's average compensation for the three (3) consecutive years of employment ~~which that~~ produce the greatest aggregate compensation, whichever is greater. If the benefit is calculated to exceed one hundred percent (100%) of the member's average compensation, the member shall be eligible for and may choose either:

(a) An annual service retirement allowance equal to the member's average annual compensation for the three (3) consecutive years of employment ~~which that~~ produced the greatest aggregate compensation; or

(b) A separation benefit.

(7) The annual amount of initial service retirement allowance of a member who is over age seventy (70) years on the effective date of the member's retirement shall be a percentage of the member's initial service retirement allowance. Such percentage shall be one hundred percent (100%) increased as

determined by the board to compensate for each month that the member's retirement is deferred beyond age seventy (70) years.

(8) A member's accrued retirement allowance, as otherwise provided in subsections (1), (2), (3), (4) and (5) of this section, shall not be less than the minimum accrued retirement allowance provided in this subsection. The determination of the initial service retirement allowance provided in subsections (1) and (2) of this section, and the application of the provisions in subsections (6) and (7) of this section, will be made after the determination of the minimum accrued retirement allowance provided in this subsection.

This subsection shall apply to members who have at least two (2) separate periods of employment covered under this chapter where each separate period of employment would otherwise be eligible for a separation benefit described in section 59-1359, Idaho Code. For purposes of this subsection, if a separation of employment occurs that does not exceed sixty (60) consecutive calendar months, then the member's period of employment shall be considered a continuous period of employment. For purposes of this subsection, the date of last contribution is the date of final contribution for each period or periods of employment.

For each separate period of employment considered under this subsection, the member must not have received a separation benefit for that period, or, if he has received such a separation benefit under section 59-1359, Idaho Code, he must have completed reinstatement of all previous credited service associated with all separation benefits for all periods of employment as permitted under section 59-1360, Idaho Code.

The minimum accrued retirement allowance shall be equal to the largest accrued retirement allowance calculated at each date of last contribution based upon the benefit and eligibility provisions in effect as of the date of the last contribution made during such separate period of employment. For purposes of determining the accrued retirement allowance for each date of last contribution:

- (a) The member must have at least sixty (60) months of credited service at the date of last contribution;
- (b) The member's months of credited service and average monthly salary are determined based solely on all periods of employment up to that date of last contribution, ignoring later periods of employment; and
- (c) The accrued retirement allowance computed for each period is multiplied by the bridging factor as provided in section 59-1355(3), Idaho Code, between the date of the last contribution made during that separate period of employment and the date of the member's final contribution made during the last period of employment prior to retirement.

SECTION 2. That Section 59-1346, Idaho Code, be, and the same is hereby amended to read as follows:

59-1346. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. (1) The annual amount of initial early retirement allowance of a member shall be a percentage of the member's accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than the sum indicated below in this subsection. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date the member would be eligible to receive full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month. Effective October 1, 1992, the further reduction for each additional month shall equal six thousand forty-two ten-thousandths of one percent (.6042%) of the member's average monthly salary; effective October 1, 1993, the further

reduction for each additional month shall equal five thousand four hundred seventeen ten-thousandths of one percent (.5417%) of the member's average monthly salary; and effective October 1, 1994, the further reduction for each additional month shall equal four thousand seven hundred ninety-two ten-thousandths of one percent (.4792%) of the member's average monthly salary. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

If a member's service retirement ratio as defined by section 59-1341, Idaho Code, is:	Then the sum of the member's credited service and age must be equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80

(2) (a) If the majority of a member's credited service is as an elected official or as an appointed official, ~~except as including~~ including a member of the Idaho legislature who first took office after July 1, 2019, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular workstation for the employer twenty (20) hours per week or more during the term of office, that member's accrued retirement allowance shall be the sum of:

(ai) That amount computed from an average monthly salary for salary received only for those months of service as an elected or as an appointed official that are in excess of the months of other credited service without consideration of any other credited service; and

(bii) That accrued retirement allowance that is computed from an average monthly salary for salary received during the member's total months of credited service excluding those excess months referenced in subparagraph (ai) of this subsection paragraph.

(b) The initial retirement allowance of members of the Idaho legislature who first took office on or before July 1, 2019, will be computed under the provisions of this section, on the basis of their total months of credited service.

(3) In no case will a member's initial early retirement benefit be equal to more than the member's accrued benefit as of May 1, 1990, or one hundred percent (100%) of the member's average compensation for the three (3) consecutive years of employment that produce the greatest aggregate compensation, whichever is greater. If the benefit is calculated to exceed one hundred percent (100%) of the member's average compensation, the member shall be eligible for and may choose either:

(a) An annual early retirement allowance equal to the member's average annual compensation for the three (3) consecutive years of employment that produced the greatest aggregate compensation; or

(b) A separation benefit.

(4) A member's accrued retirement allowance, as otherwise provided in subsections (1) and (2) of this section, shall not be less than the minimum accrued retirement allowance provided in this subsection. The determination of the initial early retirement allowance provided in subsections (1) and (2) of this section and the application of the provisions in subsection (3) of this section will be made after the determination of the minimum accrued retirement allowance provided in this subsection.

(a) The provisions of this subsection shall apply to members who have at least two (2) separate periods of employment covered under this chapter where each separate period of employment would otherwise be eligible for a separation benefit described in section 59-1359, Idaho Code. For purposes of this subsection, if a separation of employment occurs that does not exceed sixty (60) consecutive calendar months, then the member's period of employment shall be considered a continuous period of employment. For purposes of this subsection, the date of last contribution is the date of final contribution for each period of employment.

(b) For each separate period of employment considered under this subsection, the member must not have received a separation benefit for that period or, if he has received such a separation benefit under section 59-1359, Idaho Code, he must have completed reinstatement of all previous credited service associated with all separation benefits for all periods of employment as permitted under section 59-1360, Idaho Code.

(c) The minimum accrued retirement allowance shall be equal to the largest accrued retirement allowance calculated at each date of last contribution based upon the benefit and eligibility provisions in effect as of the date of the last contribution made during such separate period of employment. For purposes of determining the accrued retirement allowance for each date of last contribution:

(i) The member must have at least sixty (60) months of credited service at the date of last contribution;

(ii) The member's months of credited service and average monthly salary are determined based solely on all periods of employment up to that date of last contribution, ignoring later periods of employment; and

(iii) The accrued retirement allowance computed for each period is multiplied by the bridging factor as provided in section 59-1355(3), Idaho Code, between the date of the last contribution made during the separate period of employment and the date of the member's final contribution made during the last period of employment prior to retirement.

Approved March 12, 2019

CHAPTER 76
(H.B. No. 63)

AN ACT

RELATING TO WINE; AMENDING SECTION 23-1303, IDAHO CODE, TO REVISE THE DEFINITION OF "DESSERT WINE" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. (1) The following terms as used in this chapter are hereby defined as follows:

(a) "Dessert wine" means only those wines that contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-four percent (24%) alcohol by volume, are grape-based, and are fortified through the addition of wine-based spirits or brandy made from grapes. Dessert wine as defined herein shall not be deemed to be a spirit-based beverage for the purposes of paragraph (g) of this subsection. Dessert wine as defined in this section shall not include aromatized wines such as vermouth, quinquina, and americano.

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

(c) "Distributor" means a person to whom a wine distributor's license has been issued.

(d) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(e) "Importer" means a person to whom a wine importer's license has been issued.

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

(g) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit-based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the division system.

(h) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(i) "Retailer" means a person to whom a retail wine license has been issued.

(j) "Retail wine license" means a license issued by the director, authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

(k) "Table wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(l) "Theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(m) "Vintner" means a person who manufactures, bottles, or sells table wine or dessert wine to importers for resale within this state other than a licensed "winery" as herein defined.

(n) "Wine" includes table wine and dessert wine, unless the context requires otherwise.

(o) "Wine by the drink license" means a license to sell table wine or dessert wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(p) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute table wine or dessert wine to retailers within the state of Idaho.

(q) "Wine importer's license" means a license issued by the director to a person authorizing such person to import table wine or dessert wine into the state of Idaho and to sell and distribute such wines to a distributor.

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

(s) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(2) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and accepted meanings.

Approved March 12, 2019

CHAPTER 77
(H.B. No. 24)

AN ACT

RELATING TO RECREATIONAL ACTIVITIES; AMENDING SECTION 67-7101, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" or "ATV" means any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty (50) inches or less in width, having with a wheelbase of sixty-one (61) inches or less, has and with handlebar steering and a seat designed to be straddled by the operator.

(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(3) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.

(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, utility type vehicles or all-terrain vehicles.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(7) "Director" means the director of the department of parks and recreation.

(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section)

(9) "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractors, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

(10) "Off-highway vehicle" means an all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in this section.

(11) "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile.

(12) "Owner" means every person holding record title to a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(13) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

(14) "Public roadway" means all portions of any highway which are controlled by an authority other than the Idaho transportation department.

(15) "Snowmobile" means any self-propelled vehicle under two thousand (2,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.

(16) "Specialty off-highway vehicle" means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle or motorbike as defined in this section. The vehicle classification provided for in this subsection shall become effective on January 1, 2010.

(17) "Utility type vehicle" or "UTV" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

(18) "Vendor" means any entity authorized by the department to sell recreational certificates of number.

(19) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing recreation account.

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

Approved March 12, 2019

CHAPTER 78
(H.B. No. 6)

AN ACT

RELATING TO SOCIAL WORK LICENSING; AMENDING SECTION 54-3202, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-3206, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSING; AMENDING SECTION 54-3211, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 54-3214, IDAHO CODE, TO REVISE PROVISIONS REGARDING REPRESENTATION TO THE PUBLIC.

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

SECTION 1. That Section 54-3202, Idaho Code, be, and the same is hereby amended to read as follows:

54-3202. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning.

(1) "Board" means the state board of social work examiners hereinafter provided in this chapter.

(2) "Social work" is defined as the professional activity of helping individuals, groups, families and communities enhance or restore their capacity for social functioning and creating societal conditions favorable to this goal. Social work practice consists of the professional application of social work values, principles and techniques. The practice of social work requires knowledge of human development and behavior of social, economic and cultural institutions and of the interaction of all these factors.

(3) "Clinical social worker" means an individual who is licensed under this chapter and may be designated as a licensed clinical social worker (LCSW).

(4) "Masters social worker" means an individual who is licensed under this chapter and may be designated as a licensed masters social worker (LMSW).

(5) "Bachelor social worker" means an individual who is licensed under this chapter and may be designated as a licensed bachelor social worker (LBSW).

SECTION 2. That Section 54-3206, Idaho Code, be, and the same is hereby amended to read as follows:

54-3206. LICENSING -- QUALIFICATIONS. The board shall issue licenses to qualified applicants who have passed an examination conducted or approved by the board, are of good moral character and meet one (1) of the following:

(1) For a clinical social worker license, possess a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience approved by the board;

(2) For a masters social worker license, possess a master's degree or doctorate in social work from a college or university approved by the board; or

(3) For a bachelor social worker license, possess a baccalaureate degree in social work from a college or university approved by the board.

SECTION 3. That Section 54-3211, Idaho Code, be, and the same is hereby amended to read as follows:

54-3211. REFUSAL TO ISSUE, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE -- UNPROFESSIONAL CONDUCT. The board may refuse to issue, refuse to renew, may suspend, or may revoke any license issued under this chapter,

or take other disciplinary action, upon proof, after a hearing, that the person has engaged in "unprofessional conduct." The words "unprofessional conduct" as relating to persons licensed under this chapter are defined to include but are not limited to:

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

SECTION 4. That Section 54-3214, Idaho Code, be, and the same is hereby amended to read as follows:

54-3214. LICENSE REQUIRED -- REPRESENTATION TO PUBLIC. (1) No person may engage in the practice of social work unless he that person is licensed under this chapter, or is a student under the supervision of a person who is licensed under this chapter.

(2) No person shall be represented as a social worker by the use of titles "social worker," "bachelor social worker," "masters social worker," "clinical social worker," "social caseworker," "social service worker," "social service director" or any other title or similar designation that includes such words, or by adding the letters "LCSW," "SW," "LSW," "LBSW," or "LMSW" unless licensed under the provisions of this chapter.

(3) Nothing within this chapter shall be construed to prevent any person from doing work within the standards and ethics of their respective professions or calling, provided they do not hold themselves out to the public by title or description of service as being engaged in social work practice.

Approved March 12, 2019

CHAPTER 79
(H.B. No. 5)

AN ACT

RELATING TO CHIROPRACTIC PRACTICE; AMENDING SECTION 54-707, IDAHO CODE, TO REMOVE A PROVISION REGARDING PEER REVIEW AND TO MAKE A TECHNICAL CORRECTION; AND REPEALING SECTION 54-715, IDAHO CODE, RELATING TO A PEER REVIEW COMMITTEE.

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

SECTION 1. That Section 54-707, Idaho Code, be, and the same is hereby amended to read as follows:

54-707. POWERS AND DUTIES. The board shall have the authority to:

- (1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;
- (2) Establish, pursuant to the provisions of chapter 52, title 67, Idaho Code, rules for the administration of the provisions of this chapter;
- (3) Conduct investigations and examinations and hold hearings;
- (4) Revoke or suspend licenses to practice chiropractic after providing the licensee with an opportunity for an appropriate contested case in accordance with the provisions of chapter 52, title 67, Idaho Code;
- (5) In any disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have the power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may desire at any hearing and, for that purpose, the board may issue a subpoena for any witnesses or subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county in the state of Idaho, where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. The licensee accused in such proceedings shall have the same right of subpoena upon making application to the board therefor. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum, served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which this disobedience, neglect or refusal occurs, on application by the board to compel compliance with the subpoena, to issue its order directing compliance with such subpoena, and in the event of a violation of such order, to compel compliance with such order by proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or for refusal to testify therein;
- (6) Seek injunctive relief prohibiting the unlawful practice of chiropractic;
- (7) Make and enter into contracts in the necessary performance of its duties pursuant to this chapter;
- (8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions;
- (9) Perform such other duties as set forth in the laws of this state;
- (10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities;

(11) Adopt rules to provide for reasonable fees and for administrative costs and to assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation thereof; and

(12) Adopt a rule requiring continuing education as a condition of continued licensure or continued certification in clinical nutrition; and

~~(13) Adopt rules pursuant to chapter 52, title 67, Idaho Code, to establish and operate a system of peer review for chiropractic physicians that shall include, but not be limited to, the appropriateness, quality, utilization, and cost of chiropractic services and the ethical performance of chiropractic care.~~

SECTION 2. That Section 54-715, Idaho Code, be, and the same is hereby repealed.

Approved March 12, 2019

CHAPTER 80
(H.B. No. 156)

AN ACT

RELATING TO FIREARMS; AMENDING SECTION 18-3302H, IDAHO CODE, TO REVISE A DEFINITION AND TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 18-3302H, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302H. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS. (1) A county sheriff shall issue a license to carry a concealed firearm to a qualified retired law enforcement officer provided that the provisions of this section are met.

(2) As used in this section:

(a) "Firearm" means a handgun and does not include:

- (i) Any machine gun, as defined in 26 U.S.C. section 5845 (b) ;
- (ii) Any firearm silencer, as defined in 18 U.S.C. section 921; or
- (iii) Any destructive device, as defined in 18 U.S.C. section 921.

(b) "Qualified retired law enforcement officer" means an individual who:

- (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
- (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of ~~fifteen~~ ten (150) years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
- (v) During the most recent twelve (12) month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under

paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;

(vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;

(vii) Is not prohibited by federal law from receiving a firearm;

(viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;

(ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);

(x) Pays the fees charged by the sheriff pursuant to this section; and

(xi) Completes the original application or renewal application as provided by this section.

(c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.

(d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following methods, provided the sheriff may require an applicant to complete more than one (1) firearms safety or training course:

(i) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;

(ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;

(iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

(iv) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;

(v) Presentation of evidence of equivalent experience with a firearm through participation in organized shooting competitions or military service;

(vi) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or

(vii) Any other firearms safety training that the sheriff may deem appropriate.

(3) The original and renewal license applications under this section shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, identification of the law enforcement agency from which the applicant retired, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. In implementing the provisions of this section, the sheriff shall

make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(4) The fee for original issuance of a license under this section shall be twenty dollars (\$20.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the cost of processing and the cost of materials for the license, which shall also be paid to the sheriff.

(5) An original or renewed license issued pursuant to this section shall be in a form substantially similar to that of the Idaho driver's license and shall be valid for a period of one (1) year. The license shall bear the signature, name, address, date of birth, picture of the licensee, expiration date, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license, and shall state that the licensee is a qualified retired law enforcement officer. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police on a form or in a manner prescribed by the director of the Idaho state police.

(6) A qualified retired law enforcement licensee under this section may renew his license if he applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete a renewal application pursuant to subsection (3) of this section and an affidavit pursuant to subsection (2) of this section. A renewed license shall take effect upon the expiration date of the prior license.

(7) The fee for renewal of the license, which must be paid on a yearly basis, shall be twelve dollars (\$12.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the processing costs and the cost of materials for the license, which shall also be paid to the sheriff. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee. The renewal penalty fee, if any, shall be paid to the sheriff.

(8) A current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, together with a license issued by the sheriff pursuant to this section, shall serve as a license to carry a firearm for a qualified retired law enforcement officer under 18 U.S.C. section 926C.

(9) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license issued under this section pursuant to the provisions of section 18-3302(1522), Idaho Code.

(10) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon pursuant to this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(11) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor shall a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action shall be brought in the county in which the application was made.

(13) In lieu of or in addition to qualification to carry a concealed firearm under this section, a retired law enforcement officer may apply for a license to carry concealed weapons under section 18-3302, Idaho Code.

(14) Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 74-102, Idaho Code.

CHAPTER 81
(H.B. No. 71)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-3802, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 38, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3815A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING GROUP-WIDE SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS; AMENDING SECTION 41-3816, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONFIDENTIAL TREATMENT OF CERTAIN DOCUMENTS, MATERIALS, AND INFORMATION AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 41-3802, Idaho Code, be, and the same is hereby amended to read as follows:

41-3802. DEFINITIONS. As used in this chapter, the following terms shall have the following meanings:

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

(2) "Control," including "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or a corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 41-3809(11), Idaho Code, that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Enterprise risk" means any activity, circumstance, event or series of events involving one (1) or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 41-5403, Idaho Code, or would cause the insurer to be in hazardous financial condition as set forth by rule in IDAPA 18.01.66.

(4) "Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the director under section 41-3815A, Idaho Code, to have sufficient significant contacts with the internationally active insurance group.

(5) "Insurance holding company system" means two (2) or more affiliated persons, one (1) or more of whom is an insurer.

(56) "Insurer" has the same meaning as that set forth in section 41-103, Idaho Code, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the

Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

(7) "Internationally active insurance group" means an insurance holding company system that:

(a) Includes an insurer registered under section 41-3809, Idaho Code; and

(b) Meets the following criteria:

(i) Premiums written in at least three (3) countries;

(ii) The percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums; and

(iii) Based on a three (3) year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000).

(68) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

(79) "Security holder" means a person who owns any security of a specified person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

(810) "Subsidiary" means a specified person who is an affiliate controlled by such person directly or indirectly through one (1) or more intermediaries.

(911) "Voting security" means any security convertible into or evidencing a right to acquire a voting security.

SECTION 2. That Chapter 38, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3815A, Idaho Code, and to read as follows:

41-3815A. GROUP-WIDE SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS. (1) The director is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section. However, the director may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

(a) Does not have substantial insurance operations in the United States;

(b) Has substantial insurance operations in the United States, but not in this state; or

(c) Has substantial insurance operations in the United States and in this state, but the director has determined pursuant to the factors set forth in subsections (2) and (6) of this section that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the director make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(2) In cooperation with other state, federal, and international regulatory agencies, the director will identify a single group-wide supervisor for an internationally active insurance group. The director may determine that the director is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance

operations concentrated in this state. However, the director may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The director shall consider the following factors when making a determination or acknowledgment under this subsection:

- (a) The place of domicile of the insurers within the internationally active insurance group who hold the largest share of the group's written premiums, assets, or liabilities;
- (b) The place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group;
- (c) The location of the executive offices or largest operational offices of the internationally active insurance group;
- (d) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the director determines to be:
 - (i) Substantially similar to the system of regulation provided under the laws of this state; or
 - (ii) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and
- (e) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the director with reasonably reciprocal recognition and cooperation. However, a director or regulatory official from another jurisdiction identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in this subsection, shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and shall be made in consultation with the internationally active insurance group.

(3) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the director shall acknowledge that regulatory official as the group-wide supervisor. However, in the event of a material change in the internationally active insurance group that results in:

- (a) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities; or
- (b) This state being the place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group,

the director shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection (2) of this section.

(4) Pursuant to section 41-3814, Idaho Code, the director is authorized to collect from any insurer registered pursuant to section 41-3809, Idaho Code, all information necessary to determine whether the director may act as the group-wide supervisor of an internationally active insurance group or if the director may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the director, the director shall notify the insurer registered pursuant to section 41-3809, Idaho Code, and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have no fewer than thirty (30) days to provide the director with additional information pertinent to the pending determination. The director shall publish on the department of insurance website the identity of in-

ternationally active insurance groups that the director has determined are subject to group-wide supervision by the director.

(5) If the director is the group-wide supervisor for an internationally active insurance group, the director is authorized to engage in any of the following group-wide supervision activities:

(a) Assess the enterprise risks within the internationally active insurance group to ensure that:

(i) The material financial condition and liquidity risks to the members of the internationally active insurance group engaged in the business of insurance are identified by management; and

(ii) Reasonable and effective mitigation measures are in place;

(b) Request, from any member of an internationally active insurance group subject to the director's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding:

(i) Governance, risk assessment, and management;

(ii) Capital adequacy; and

(iii) Material intercompany transactions;

(c) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group engaged in the business of insurance;

(d) Communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of section 41-3816, Idaho Code, through supervisory colleges as set forth in section 41-3815, Idaho Code, or otherwise;

(e) Enter into agreements with or obtain documentation from any insurer registered under section 41-3809, Idaho Code, any member of the internationally active insurance group and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the director's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and

(f) Other group-wide supervision activities, consistent with the authorities and purposes enumerated in this subsection, as considered necessary by the director.

(6) If the director acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor, the director is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

(a) The director's cooperation is in compliance with the laws of this state; and

(b) The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the director's activities as a group-wide supervisor for other internationally active insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the director is authorized to refuse recognition and cooperation.

(7) The director is authorized to enter into agreements with or obtain documentation from any insurer registered under section 41-3809, Idaho Code, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group, that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(8) The director may promulgate rules necessary for the administration of this section.

(9) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the director's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

SECTION 3. That Section 41-3816, Idaho Code, be, and the same is hereby amended to read as follows:

41-3816. CONFIDENTIAL TREATMENT. (1) Documents, materials or other information in the possession or control of the department that are obtained by or disclosed to the director or any other person in the course of an examination or investigation made pursuant to section 41-3814, Idaho Code, and all information reported or provided to the department pursuant to sections 41-3804(2), 41-3809, and 41-3810, and 41-3815A, Idaho Code, shall be confidential by law and privileged, shall be exempt from public disclosure, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use such documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains, unless the director, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication, in which event the director may publish all or any part in such manner as may be deemed appropriate.

(2) Neither the director nor any person who receives documents, materials or other information while acting under the authority of the director or with whom such documents, materials or other information is shared pursuant to this chapter, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the director's duties under title 41, Idaho Code, the director:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other state, federal and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, including members of any supervisory college described in section 41-3815, Idaho Code, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information and has verified in writing the legal authority to maintain confidentiality-;

(b) Notwithstanding the provisions of subsection (3)(a) of this section, the director may only share confidential and privileged documents, materials or information reported pursuant to section 41-3809(12), Idaho Code, with commissioners of states having statutes or regulations substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information-;

(c) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to the provisions of this chapter consistent with this subsection, which agreements shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal or international regulators;

(ii) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the director, and the national association of insurance commissioners' use of the information is subject to the direction of the director;

(iii) Require prompt notice to be given to an insurer whose confidential information is in the possession of the national association of insurance commissioners pursuant to this chapter that disclosure of such confidential information has been requested or subpoenaed or otherwise sought; and

(iv) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial, administrative or similar action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and the insurer's affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the director pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking, and the director is solely responsible for the administration, execution and enforcement of the provisions of this chapter.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under the provisions of this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter shall be confidential and privileged, shall not be a public record, shall not be subject to public disclosure, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 13, 2019

CHAPTER 82
(H.B. No. 58)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1761, IDAHO CODE, TO REVISE DEFINITIONS; REPEALING SECTION 54-1762, IDAHO CODE, RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AND AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1762, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING LEGEND DRUG DONATION.

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

SECTION 1. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(7), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful:

(a) The sale, delivery or administration of any prescription drug or legend drug, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

(ii) In the case of a legend drug dispensed by a pharmacist or prescriber, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug, except as designated on the prescription or drug order or by the authorization of the practitioner. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The wholesale distribution of drugs or devices by a pharmacy except for:

(i) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.

(ii) The sale of minimal quantities of prescription drugs to practitioners for office use or to dispensing drug outlets for a specific patient need.

(iii) The sale of a prescription drug for emergency medical reasons, but never to a wholesale distributor.

(iv) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees or a colicensed product, but never to a wholesale distributor.

(e) The failure to keep records as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(f) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(g) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

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

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

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

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

(vii) Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

Every violation of paragraph (g) (i) through (vi) of this subsection shall be a misdemeanor, and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000) or punished by both such fine and imprisonment. Any person violating paragraph (g) (vii) of this subsection is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

SECTION 2. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765, Idaho Code:

(1) "Donation repository" means:

(a) A community health center as defined in section 39-3203, Idaho Code;

(b) A free medical clinic as defined in section 39-7702, Idaho Code;

(c) A designated regional behavioral health center as identified in chapter 31, title 39, Idaho Code;

(d) A state charitable institution as defined in chapter 1, title 66, Idaho Code; or

(e) A drug outlet as defined in section 54-1705, Idaho Code.

(2) "Legend drug" has the same meaning as provided in section 54-1705(35), Idaho Code.

(23) "Medically indigent patient" means any person who is in need of a legend drug a resident of Idaho and who meets one (1) of the following conditions:

(a) The person is not eligible for medicaid or medicare, who;

(b) The person cannot afford private prescription drug insurance; or

(c) The person who does not have income and other resources available sufficient to pay for the a legend drug.

~~(3) "Patient assistance program" means a program in which pharmaceutical manufacturers provide financial or medication assistance to low-income or medically indigent individuals.~~

~~(4) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho; or a designated regional behavioral health center as identified in chapter 31, title 39, Idaho Code; or a state charitable institution as defined in chapter 1, title 66, Idaho Code, acting in consultation with a pharmacist, physician, physician assistant or advanced practice professional nurse with prescriptive authority licensed in the state of Idaho~~

(4) "Qualified donor" means:

(a) Any entity that meets the definition of "donation repository" as provided in this section; or

(b) Any member of the public in accordance with section 54-1762, Idaho Code.

SECTION 3. That Section 54-1762, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1762, Idaho Code, and to read as follows:

54-1762. LEGEND DRUG DONATION. (1) Legend drugs may be transferred from a qualified donor to a donation repository for donation to medically indigent patients.

(2) Qualified donors may distribute legend drugs in accordance with the following requirements:

(a) Drugs donated by an individual member of the public must be in the manufacturer's original sealed packaging, including those packaged in single unit doses when the outside packaging is open and the single unit dose packaging is intact; and

(b) Drugs donated by an entity that is a qualified donor must meet either of the following conditions:

(i) The drugs are in the manufacturer's original sealed packaging, including those packaged in single unit doses when the outside packaging is open and the single unit dose packaging is intact; or

(ii) The drugs are opened or unsealed but have remained under the control and storage of the qualified donor.

(3) Donation repositories may accept drugs in accordance with the following specifications:

(a) Only drugs that bear a clear and verifiable lot number and expiration date may be accepted and dispensed. Drugs bearing an expiration date fewer than three (3) months from the date the drug is donated shall not be accepted and shall not be dispensed;

(b) Drugs and other substances provided in schedules II through V of article II, chapter 27, title 37, Idaho Code, shall not be accepted and shall not be dispensed; and

(c) A drug shall not be accepted or dispensed if the person accepting or dispensing the drug has reason to believe that the drug has been adulterated.

(4) Any donation repository dispensing legend drugs shall:

(a) Comply with all applicable federal and state laws related to the storage and distribution of drugs;

(b) Inspect all drugs prior to dispensing to determine that such drugs have not been adulterated;

- (c) Dispense drugs pursuant only to a valid prescription; and
- (d) Separate donated drugs from the donation repository's normal drug stock. Donated drugs may not be resold.

(5) Nothing in this section shall require any person or entity to donate legend drugs, dispense donated legend drugs, transfer legend drugs for donation, or accept donated legend drugs.

(6) Nothing in this section shall prohibit or restrict the return of unused prescription drugs to the Idaho medicaid program pursuant to rules promulgated by the Idaho department of health and welfare.

Approved March 13, 2019

CHAPTER 83
(H.B. No. 134)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-902, IDAHO CODE, TO DEFINE A TERM; AND AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE THAT IT SHALL NOT BE UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS TO ENTER OR BE IN A PLAZA UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 23-902, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has, as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20) years; and which has no fewer than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had, during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club membership shall consist of bona fide dues-paying members, recorded by the secretary of the club, paying at least six dollars (\$6.00) per year in dues, payable monthly, quarterly or annually; and the members at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

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

(4) "Festival" means a period or program of festive activities, cultural events or entertainment lasting three (3) or more consecutive days.

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

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

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

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

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

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

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

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

(13) "Person" means any individual, corporation, business corporation, nonprofit corporation, benefit corporation as defined in section 30-2002(1), Idaho Code, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, estate, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, any entity defined in section 30-21-102, Idaho Code, or any other commercial entity, whether conducting the business singularly or collectively.

(14) "Plaza" means a public square, marketplace, or similar open space in a city or town.

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

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

(167) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

(178) "Theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(189) "Brewery" means a place, premises or establishment for the manufacture, bottling or canning of beer.

(1920) "Winery" means a place, premises or establishment within the state of Idaho for the manufacture or bottling of table wine or dessert wine for sale. Two (2) or more wineries may use the same premises and the same

equipment to manufacture their respective wines, to the extent permitted by federal law.

(201) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and acceptable meanings.

SECTION 2. That Section 23-944, Idaho Code, be, and the same is hereby amended to read as follows:

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(1) Upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcohol beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein;

(2) In any building, a part or portion of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein;

(3) In any baseball park, sports arena, convention center, multipurpose arena, theater, or plaza that is presenting live performances or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds so long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code;

(4) Upon the premises of any licensed brewery or winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that beer or wine is dispensed and served and consumed therein;

(5) Upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery;

(6) At a location, other than a liquor, beer, or wine licensed premises, authorized to serve alcohol beverages under a valid alcohol beverage catering permit; or

(7) In any movie theater that is allowed to sell beer or wine for consumption on the premises pursuant to a valid license and which movie theater had a license that was valid and not suspended or revoked on January 1, 2006. No films, still pictures, electronic reproductions or other visual reproductions which are in violation of chapter 41, title 18, Idaho Code (indecent and obscenity), or are in violation of federal law regarding pornography, indecent or obscenity shall be shown or displayed on the premises. As used in this subsection, "movie theater" means a motion picture theater that is being utilized solely for exhibition of a motion picture.

CHAPTER 84
(H.B. No. 76)

AN ACT

RELATING TO ELECTRIC-ASSISTED BICYCLES; AMENDING SECTION 40-616, IDAHO CODE, TO PROVIDE FOR ELECTRIC-ASSISTED BICYCLES; AMENDING SECTION 49-106, IDAHO CODE, TO PROVIDE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE DEFINITIONS AND PROVIDE A DEFINITION; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE FOR ELECTRIC-ASSISTED BICYCLES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-310, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR ELECTRIC-ASSISTED BICYCLES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-720, IDAHO CODE, TO PROVIDE FOR ELECTRIC-ASSISTED BICYCLES, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-725, IDAHO CODE, TO PROVIDE FOR RIGHTS AND DUTIES OF ELECTRIC-ASSISTED BICYCLES; AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-726, IDAHO CODE, TO PROVIDE EXEMPTION FROM INSURANCE, LICENSING, AND REGISTRATION FOR ELECTRIC-ASSISTED BICYCLES; AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-727, IDAHO CODE, TO PROVIDE FOR THE LABELING OF ELECTRIC-ASSISTED BICYCLES; AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-728, IDAHO CODE, TO PROVIDE FOR PATH USE BY ELECTRIC-ASSISTED BICYCLES; AND AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-729, IDAHO CODE, TO PROVIDE FOR VIOLATIONS.

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

SECTION 1. That Section 40-616, Idaho Code, be, and the same is hereby amended to read as follows:

40-616. SIDEWALKS OR SIDE PATHS. Commissioners and boards of commissioners of any highway district are empowered to set apart on and along any public highway outside the boundaries of incorporated cities a strip of land not exceeding eight (8) feet in width for a sidewalk or side path and to make an order designating the width of the path and to cause the line separating the path from the highway proper to be located and marked with stakes, posts, grade or other marker. After the sidewalks and paths have been set apart and the line separating them from the highway has been located and marked, the use shall be restricted to pedestrians, and riders of bicycles propelled solely by the power of the rider, and riders of electric-assisted bicycles, if not otherwise prohibited by local ordinance or by signage posted by the public agency with jurisdiction after notice by inclusion on a governing board agenda.

SECTION 2. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

49-106. DEFINITIONS -- E. (1) "Electric-assisted bicycle" means a bicycle equipped with fully operable pedals and an electric motor of less than seven hundred fifty (750) watts and that meets one (1) of the following requirements:

(a) "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases when the rider stops pedaling or when the bicycle reaches the speed of twenty (20) miles per hour.

(b) "Class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that is not capable of providing assistance when the bicycle reaches the speed of twenty (20) miles per hour.

(c) "Class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases when the rider stops pedaling or when the bicycle reaches the speed of twenty-eight (28) miles per hour.

(2) "Electric personal assistive mobility device" means a self-balancing two (2) nontandem wheeled device designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less.

(23) "Emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(34) "Encumbrance." (See "Lien," section 49-113, Idaho Code)

(45) "EPA" means the environmental protection agency of the United States.

(56) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(67) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(78) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules adopted by the board of health and welfare, on the "A" scale of a general radio company Nno. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(89) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(910) "Executive head," as used in chapter 20, title 49, Idaho Code, means the governor of the state of Idaho.

(101) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(112) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

(a) Is blocking or impeding traffic; or

(b) Is causing a hazard; or

(c) Has the potential of impeding any emergency vehicle; or

(d) Is impeding any snow removal or other road maintenance operation; or

(e) Has been stolen but not yet reported as recovered; or

(f) Is not registered, or displays a license plate registration tag which has been expired; or

(g) Has been involved in an accident and remains on the highway; or

(h) The driver of which has been arrested.

SECTION 3. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M. (1) "Major component part" for vehicles means a rear or rear clip, frame or subframe, body or center, passenger area, cab, front or front end assembly or front clip or nose section or roof of passenger compartment. "Major component part" for vessels means a hull, bow, gunnel, stern or transom, or permanently attached propulsion unit.

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

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

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

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

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

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

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

(9) "Moped" means a limited-speed motor-driven cycle having wheels less than twenty (20) inches in diameter and:

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

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

A moped does not include an electric-assisted bicycle.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards. A motorbike does not include an electric-assisted bicycle.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three (3) wheels in contact with the ground or designed to travel on two (2) wheels in contact with the ground which is modified by the addition of two (2) stabilizing wheels on the rear of the motor vehicle, that meets the federal motor vehi-

cle safety standards as originally designed, and includes a converted motor-bike, but does not include a motor-driven cycle, a motorbike, a tractor, an electric-assisted bicycle, or a moped.

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

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds or electric-assisted bicycles. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

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

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

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

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

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

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

(20) "Multiuse path" means a path physically separated from motor vehicle traffic by an open space or barrier and within either a public right-of-way or easement that accommodates two-way nonmotorized travelers including pedestrians, bicyclists, joggers, and skaters.

SECTION 4. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. (See also section 49-117, Idaho Code)

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Assembled vehicle or vessel. A vehicle or vessel, not including a salvage vehicle or vessel, that has been constructed using major component parts from two (2) or more vehicles or vessels or that has been repaired using new factory major component parts so that the resulting vehicle or vessel has the same appearance as a vehicle or vessel that was manufactured under a specific make and model by a manufacturer. A vehicle or vessel utilizing a kit for the entire body or a glider kit vehicle is not an assembled vehicle.

(c) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles that are under the immediate supervision of the county sheriff, wreckers that are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(d) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

- (i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
- (ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
- (iii) Is designed to transport sixteen (16) or more people, including the driver; or
- (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(e) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, or by ~~their~~ his designated agent, which are operated over public highways, and used exclusively to transport unprocessed

agricultural products raised, owned or grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(f) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(g) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(h) Motor vehicle. Every vehicle which that is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices, personal delivery devices, electric-assisted bicycles, and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(i) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(j) Neighborhood electric vehicle (NEV). A self-propelled, electrically powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(k) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(l) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(m) Rebuilt salvage vehicle or vessel. Every vehicle or vessel previously determined or declared to be a salvage vehicle that has been re-

built or repaired using like make and model parts and visually appears as a vehicle or vessel that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle or vessel which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

(n) Replica vehicle or vessel. A vehicle or vessel made to replicate any vehicle or vessel previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle or vessel. Any vehicle or vessel for which a salvage certificate of title, salvage bill of sale or other documentation has been issued showing evidence that the vehicle or vessel has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle or vessel, such vehicle shall be considered to be a salvage vehicle or vessel.

(p) Specially constructed vehicle or vessel. Every vehicle or vessel of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles or vessels and not materially altered from its original construction and cannot be visually identified as a vehicle or vessel produced by a particular manufacturer. This includes:

(i) A vehicle or vessel that has been structurally modified so that it does not have the same appearance as a similar vehicle or vessel from the same manufacturer; or

(ii) A vehicle or vessel that has been constructed entirely from homemade parts and materials not obtained from other vehicles or vessels; or

(iii) A vehicle or vessel that has been constructed by using major component parts from one (1) or more manufactured vehicles or vessels and cannot be identified as a specific make or model; or

(iv) A vehicle or vessel constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(q) Specialty off-highway vehicle. A specialty off-highway vehicle as defined in section 67-7101, Idaho Code.

(r) Tank vehicle.

(i) Any commercial motor vehicle transporting, or designed to transport, any liquid or gaseous materials within:

1. A tank that is either permanently or temporarily attached or secured to the vehicle or chassis and has a rated capacity of one thousand (1,000) gallons or more; or

2. Multiple tanks either permanently or temporarily attached or secured, when the aggregate rated capacity of those tanks is one thousand (1,000) gallons or more, as determined by adding the capacity of each individual tank with a capacity of more than one hundred nineteen (119) gallons.

(ii) If a commercial motor vehicle transports one (1) or more tanks that are manifested either as empty or as residue and that

are actually empty or contain only residue, those tanks shall not be considered in determining whether the vehicle is a tank vehicle.

(s) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 5. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-310. APPLICATIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) The application of any person under the age of eighteen (18) years for any class D instruction permit, restricted driver's license, restricted school attendance driving permit, driver training instruction permit or driver's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if either be dead, then by the surviving parent who has custody of him; or by the Idaho resident host of a foreign exchange student, or in the event neither parent is living, or if living and does not have the custody of the applicant, then by the person or guardian having such custody, with verifiable custody or guardianship documents, or by an employer of the applicant. In the event there is no guardian or employer, then some other responsible person willing to assume the obligation for the applicant may sign the application. Any person who signs the applicant's application shall attest that the applicant is in compliance with the school attendance provisions of section 49-303A, Idaho Code. When the minor person applies for a class D driver's license, a parent or guardian or a person authorized by the parent or guardian shall attest that the minor person has satisfied the requirements and conditions applicable to the class D supervised instruction permit pursuant to section 49-307, Idaho Code. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age. When signing for a restricted school attendance driving permit, the person signing the applicant's application shall attest that the conditions set forth within section 49-307A, Idaho Code, are met. Each application for a restricted school attendance driving permit shall also be signed by the local county sheriff, the president of the board of trustees of the local school district, and the school principal of the applicant's school, verifying that the conditions set forth within section 49-307A, Idaho Code, are met.

(2) Any negligence or willful misconduct of a person under the age of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or willful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's license holder under the age of eighteen (18) years maintains, or there is maintained upon his behalf, proof of financial responsibility as required under the motor vehicle financial responsibility laws of this state, or by the director if the form and amount is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained, the parent or guardian shall not be subject to liability for the negligence or willful misconduct of the person under the age of eighteen (18) years, as imposed under subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian, ~~or bicycle,~~ or electric-assisted bicycle infraction, and provided this subsection shall not apply to any civil action where the plaintiff is other than the state of Idaho.

SECTION 6. That Section 49-720, Idaho Code, be, and the same is hereby amended to read as follows:

49-720. STOPPING -- TURN AND STOP SIGNALS. (1) A person operating a bicycle, ~~or human-powered vehicle,~~ or an electric-assisted bicycle approaching a stop sign shall slow down and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the person is moving across or within the intersection or junction of highways, except that a person, after slowing to a reasonable speed and yielding the right-of-way, if required, may cautiously make a turn or proceed through the intersection without stopping.

(2) A person operating a bicycle or human-powered vehicle approaching a steady red traffic control light shall stop before entering the intersection and shall yield to all other traffic. Once the person has yielded, he may proceed through the steady red light with caution. Provided however, that a person, after slowing to a reasonable speed and yielding the right-of-way, if required, may cautiously make a right-hand turn. A left-hand turn onto a one-way highway may be made on a red light after stopping and yielding to other traffic.

(3) A person riding a bicycle shall comply with the provisions of section 49-6434, Idaho Code.

(4) A signal of intention to turn right or left shall be given during not less than the last one hundred (100) feet traveled by the bicycle before turning, provided that a signal by hand and arm need not be given if the hand is needed in the control or operation of the bicycle.

SECTION 7. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-725, Idaho Code, and to read as follows:

49-725. RIGHTS AND DUTIES OF ELECTRIC-ASSISTED BICYCLES. Except as otherwise provided in this title, an electric-assisted bicycle shall be subject to all the safety requirements of a bicycle. A rider of an elec-

tric-assisted bicycle shall be afforded all the rights and privileges and be subject to all of the duties and safety requirements as the rider of a bicycle. Subject to the provisions in this chapter, electric-assisted bicycles may be ridden where bicycles are permitted to travel, unless excluded by local ordinance or by signage posted by the public agency with jurisdiction after notice by inclusion on a governing board agenda.

SECTION 8. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-726, Idaho Code, and to read as follows:

49-726. INSURANCE, LICENSING, AND REGISTRATION. Electric-assisted bicycles are not subject to the provisions of section 49-301, Idaho Code, relating to driver's licenses. An electric-assisted bicycle and any person operating an electric-assisted bicycle are not subject to the provisions of this title relating to financial responsibility, driver's licenses, titles, registration, and license plate requirements. An electric-assisted bicycle shall be considered a motor vehicle to the extent required by 23 U.S.C. 154.

SECTION 9. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-727, Idaho Code, and to read as follows:

49-727. LABELING. On and after September 1, 2019, manufacturers or distributors of electric bicycles shall apply a label that is permanently affixed, in a prominent location, to each electric bicycle. The label shall contain the classification number, top assisted speed, and motor wattage of the electric bicycle, and shall be printed in arial font in at least 9-point type.

SECTION 10. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-728, Idaho Code, and to read as follows:

49-728. PATH USE BY ELECTRIC-ASSISTED BICYCLES. Electric-assisted bicycles may be used in places where bicycles are permitted to travel including but not limited to multiuse paths, unless excluded by local ordinance or by signage posted by the public agency with jurisdiction after notice by inclusion on a governing board agenda.

SECTION 11. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-729, Idaho Code, and to read as follows:

49-729. VIOLATION. A violation of applicable provisions in this chapter or in chapter 6, title 49, Idaho Code, by a rider of an electric-assisted bicycle shall be an infraction.

Approved March 14, 2019

CHAPTER 85

(H.B. No. 42, As Amended in the Senate)

AN ACT

RELATING TO LABOR NEGOTIATIONS; AMENDING SECTION 74-206A, IDAHO CODE, TO PROVIDE THAT LABOR NEGOTIATION ARBITRATORS, FACT FINDERS, MEDIATORS, OR FACILITATORS SHALL MEET IN OPEN SESSION WHEN MEETING WITH BOTH PARTIES TO THE NEGOTIATION AT THE SAME TIME; AND REPEALING SECTION 4, CHAPTER 271, LAWS OF 2015, RELATING TO THE SUNSET DATE OF THE SECTION.

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

SECTION 1. That Section 74-206A, Idaho Code, be, and the same is hereby amended to read as follows:

74-206A. NEGOTIATIONS IN OPEN SESSION. (1) All negotiations between a governing body and a labor organization shall be in open session and shall be available for the public to attend. This requirement also applies to negotiations between the governing body's designated representatives and representatives of the labor organization. This requirement shall also apply to meetings with any labor negotiation arbitrators, fact finders, mediators or similar labor dispute meeting facilitators when meeting with both parties to the negotiation at the same time. Provided, however, a governing body or its designated representatives may hold an executive session for the specific purpose of:

(a) Considering Deliberating on a labor contract offer or to formulate a counteroffer; or

(b) Receiving information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy.

(2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes, shall be subject to public writings disclosure laws.

(3) Any other provision of law notwithstanding, including any other provisions to the contrary in sections 33-402 and 74-204, Idaho Code, the governing body shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the governing body by immediately posting notice of the negotiation session on the front page of its official website. If time permits, the governing body shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

(4) Public testimony, if any, shall be posted as an agenda item.

SECTION 2. That Section 4, Chapter 271, Laws of 2015, be, and the same is hereby repealed.

Approved March 14, 2019

CHAPTER 86
(H.B. No. 103)

AN ACT

RELATING TO PROPERTY TAX LEVY ELECTIONS; AMENDING SECTION 34-439A, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURES IN ELECTIONS TO AUTHORIZE A PROPERTY TAX LEVY.

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

SECTION 1. That Section 34-439A, Idaho Code, be, and the same is hereby amended to read as follows:

34-439A. DISCLOSURES IN ELECTIONS TO AUTHORIZE LEVY. (1) Notwithstanding any other provision of law except for the provisions of section 63-802(1)(g), Idaho Code, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy, except for the levies authorized for the purposes provided in sections 63-802(1)(g) and 33-802(4), Idaho Code, and except for levies relating to bonded indebtedness where section 34-439, Idaho Code, applies, shall include in the ballot question, or in a brief official statement on the ballot but separate from the ballot question, a disclosure setting forth in simple, understandable language information on the proposal substantially as follows:

(a) The purpose for which the levy shall be used; the date of the election; and the dollar amount estimated to be collected each year from the levy; and

(b) The estimated average annual cost to the taxpayer of the proposed levy, in the form of "A tax of \$ per one hundred thousand dollars (\$100,000) of taxable assessed value, per year, based on current conditions." The dollar amount shall be calculated by multiplying the expected levy rate by one hundred thousand dollars (\$100,000); and

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

(2) The information called for in subsection (1) of this section shall be placed prior to the location on the ballot where a person casts a vote and shall also be included in like manner in the official notice of the election.

Approved March 14, 2019

CHAPTER 87
(H.B. No. 157)

AN ACT

RELATING TO ALCOHOL; AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CERTAIN THEATERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1010, IDAHO CODE, TO PROVIDE FOR CERTAIN MOVIE THEATERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-944, Idaho Code, be, and the same is hereby amended to read as follows:

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed

to restrict, any person under the age of twenty-one (21) years from entering or being:

(1) Upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that ~~alcohol~~ alcoholic beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein;

(2) In any building, a part or portion of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein;

(3) In any baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds ~~se~~ as long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code;

(4) Upon the premises of any licensed brewery or winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that beer or wine is dispensed and served and consumed therein;

(5) Upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery ~~which~~ that retails exclusively the products of that winery;

(6) At a location, other than a liquor, beer, or wine licensed premises, authorized to serve ~~alcohol~~ alcoholic beverages under a valid alcohol beverage catering permit; or

(7) In any movie theater that is allowed to sell beer or wine for consumption on the premises pursuant to a valid license and which movie theater had a license that was valid and not suspended or revoked on January 1, 2006, or any other theater or movie theater built prior to January 1, 1950, and listed on the national register of historic places. No films, still pictures, electronic reproductions or other visual reproductions ~~which~~ that are in violation of chapter 41, title 18, Idaho Code (indecent and obscenity), or are in violation of federal law regarding pornography, indecent or obscenity shall be shown or displayed on the premises. As used in this subsection, "movie theater" means a motion picture theater that is being utilized solely for exhibition of a motion picture.

SECTION 2. That Section 23-1010, Idaho Code, be, and the same is hereby amended to read as follows:

23-1010. LICENSE TO SELL BEER AT RETAIL -- APPLICATION PROCEDURE AND FORM -- SHOWING OF ELIGIBILITY FOR LICENSE AND DISQUALIFICATIONS. (1) Every person who shall apply for a state license to sell beer at retail shall tender the license fee to, and file written application for license with, the director. The application shall be on a form prescribed by the director ~~which~~ that shall require such information concerning the applicant, the premises for which license is sought and the business to be conducted thereon by the ap-

plicant as the director may deem necessary or advisable, and which shall enable the director to determine that the applicant is eligible and has none of the disqualifications for license, as provided for in this section. If the applicant is applying for a license solely for a theater that is presenting live performances as those terms are defined in section 23-1001, Idaho Code, or a movie theater, as defined in section 23-944, Idaho Code, built prior to January 1, 1950, and listed on the national register of historic places, the application shall so state. Such information shall include the following:

(a) The name and place of residence of the applicant and length of his residence within the state of Idaho, and, if the applicant is a partnership, the names, places of residence and lengths of residence within the state of Idaho of each partner, and, if the applicant is a corporation or association, the date and place of incorporation or organization, the location of its principal place of business in Idaho and the names and places of residence of its officers, directors or members of its governing board, and of the person who manages or will manage the business of selling beer at retail;

(b) The particular place for which the license is desired, designating the same by a street and number, if practicable, or by such other apt description as definitely locates such place, and the name of the owner of the premises for which license is sought;

(2) The application shall affirmatively show:

(a) That the applicant is the bona fide owner of the business which that will be engaged in the sale of beer at retail and with respect to which license is sought;

(b) That the condition of the place or building wherein it is proposed to sell beer at retail conforms to all laws and rules of the state of Idaho and to the ordinances of the county and municipality applicable thereto relating to public health and safety and to the zoning ordinances of the municipality applicable thereto;

(c) That there is no stamp or permit outstanding and in force which that has been issued to any person by the United States government for the premises for which license to sell beer at retail is sought, which stamp or permit denotes payment of any special tax imposed by the United States government on a retail dealer in liquor or wines, unless said premises are premises for which a retail license for sale of liquor by the drink, issued under the provisions of chapter 9, title 23, Idaho Code, is in force and effect;

(d) That the individual applicant, or each partner of a partnership applicant, or a corporation applicant or an association applicant is qualified to do business within the state of Idaho;

(e) That the applicant, if an individual, is not less than nineteen (19) years of age;

(f) That, within three (3) years immediately preceding the date of filing the application, the applicant has not been convicted of the violation of any law of the state of Idaho, any other state, or of the United States, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquors, or, within said time, suffered the forfeiture of a bond for failure to appear in answer to charges of any such violation;

(g) That, within five (5) years immediately preceding the date of filing the application, the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;

(h) That, within three (3) years next preceding the date of filing said application, the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law of this state, or any other state, or of the United States, to sell,

manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked.

(3) To determine qualification for a license, the director shall also cause an investigation ~~which~~ that shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

(4) The affirmative showing required with respect to an applicant under paragraphs (e), (f), (g) and (h) of subsection (2) of this section shall also be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant.

(5) The application must be subscribed and sworn to by the individual applicant, or by a partner of a partnership applicant, or by an officer or manager of a corporation or association applicant, before a notary public or other person authorized by law to administer oaths.

(6) If an applicant shall be unable to make any affirmative showing required in this section or if an application shall contain a false material statement, knowingly made, the same shall constitute a disqualification for license and license shall be refused. If license is received on any application containing a false material statement, knowingly made, such license shall be revoked. If at any time during the period for which license is issued, a licensee becomes unable to make the affirmative showings required by this section, license shall be revoked, or, if disqualification can be removed, the license shall be suspended until the same shall be removed. The procedure to be followed upon refusal, revocation or suspension of license as herein provided for shall be in accordance with the procedure set forth in this act.

(7) All licenses shall expire at 1:00 ~~e-leoek~~ a.m. on the first day of the renewal month, which shall be determined by the director by administrative rule and shall be subject to annual renewal upon proper application. The director will determine the renewal month by county based on the number of current licenses within each county, distributing renewals throughout the licensing year. The director may adjust the renewal month to accommodate population increases. Each licensee will be issued a temporary license to operate until ~~their~~ the renewal month has been determined. Thereafter, renewals will occur annually on their renewal month. Renewal applications for licenses accompanied by the required fee must be filed with the director on or before the first day of the designated renewal month. Any licensee holding a valid license who fails to file an application for renewal of the current license on or before the first day of the designated renewal month shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed.

Approved March 15, 2019

CHAPTER 88
(H.B. No. 155)

AN ACT

RELATING TO LIQUOR LICENSES; AMENDING SECTION 23-957, IDAHO CODE, TO PROVIDE FOR CERTAIN BOUNDARIES, TO REVISE THE DEFINITION OF "YEAR-ROUND RESORT," AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-957, Idaho Code, be, and the same is hereby amended to read as follows:

23-957. YEAR-ROUND LIQUOR LICENSE. (1) Nothing in this chapter shall prohibit the issuance of not more than twelve (12) licenses to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership, boundaries, or leasehold premises of a year-round resort.

(2) Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a golf course, ski resort, cross-country skiing facility or waterfront resort, as defined in sections 23-903, 23-903a and 23-948, Idaho Code, located within the ownership, boundaries, or leasehold premises of a year-round resort, provided that such license shall count against the maximum number of licenses allowed by subsection (1) of this section.

(3) No license issued to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership, boundaries, or leasehold premises of a year-round resort shall be transferable to another location or facility located outside the ownership, boundaries, or leasehold premises of the year-round resort.

(4) The fees for licenses granted to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership, boundaries, or leasehold premises of a year-round resort shall be the same as those prescribed for year-round resorts in section 23-904(10), Idaho Code.

(5) "Year-round resort" means a resort open to the public year around ~~which offers round that shall have~~ all of the following within the ownership, boundaries, or leasehold premises of the resort:

(a) Cross-country skiing on not less than thirty (30) kilometers of groomed cross-country skiing trails;

(b) Alpine skiing on real property of not less than eight hundred fifty (850) acres, operating two (2) or more ~~chair-lifts~~ chairlifts with a vertical lift of two thousand eight hundred (2,800) feet or more, and having operating snowmaking equipment providing coverage to at least seventy-five (75) acres of skiing;

(c) A golf course having:

(i) No less than eighteen (18) holes with greens, fairways and tees laid out and used in the usual and regular manner of a golf course;

(ii) A total distance of seven thousand (7,000) yards as measured by totaling the tee-to-green distance of all holes; and

(iii) The course planted in grass;

(d) Mountain bike activities ~~which that~~ include at least twelve (12) miles of single-track trails, ~~chair-lift~~ chairlift-served access to at least two thousand eight hundred (2,800) feet of vertical descent and a full-service bike rental and repair facility; and

(e) At least seventy (70) private residences and accommodations available to provide overnight lodging and dining facilities serving at least two (2) meals per day for at least five hundred (500) persons located within the ownership, boundaries, or leasehold premises of the resort.

Approved March 15, 2019

CHAPTER 89
(H.B. No. 105)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420Q, IDAHO CODE, TO PROVIDE FOR PET FRIENDLY LICENSE PLATES.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$69.00
Vehicles three (3) and four (4) years old	\$57.00
Vehicles five (5) and six (6) years old	\$57.00
Vehicles seven (7) and eight (8) years old	\$45.00
Vehicles over eight (8) years old	\$45.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered registration system for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above-designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school-approved activities, the annual fee shall be twenty-four dollars (\$24.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(3) For all motorcycles and motor-driven cycles that comply with the federal motor vehicle safety standards, operated upon the public highways, the annual fee shall be nineteen dollars (\$19.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in section 49-426(2), Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) For all motor homes, the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(8) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(9) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415D, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-419C, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420J, 49-420K, 49-420L, 49-420M, 49-420N, 49-420O, and 49-420P, and 49-420Q, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. The initial program fee

and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(10) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.

(11) In addition to annual registration fees as provided in this section, registrants may pay a fee to purchase an Idaho state parks passport authorizing resident motor vehicle entry into all Idaho state parks. Registrants may pay the fee for a one (1) year or two (2) year period of time. The fee shall be ten dollars (\$10.00) for one (1) year and twenty dollars (\$20.00) for two (2) years. All fees collected pursuant to this subsection shall be deposited into the park and recreation fund and shall be subject to appropriation. Fees collected pursuant to this subsection shall not be considered a motor vehicle registration fee as provided in section 17, article VII, of the constitution of the state of Idaho.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-420Q, Idaho Code, and to read as follows:

49-420Q. PET FRIENDLY LICENSE PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed may apply for and, upon department approval, receive pet friendly license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of pet friendly license plates for other vehicles shall be subject to the rules, policies, and procedures of the department.

(2) In addition to the regular registration fee required in this chapter, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be deposited in the Idaho humane society's pet lovers fund and used in accordance with the provisions of subsection (5) of this section.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may display the plates on another vehicle only upon receipt of the new registration from the department.

(4) The pet friendly license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the Idaho humane society and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho humane society.

(5) Sample pet friendly license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be deposited in the Idaho humane society's pet lovers fund. A committee of five (5) members shall be appointed by the board of directors of the Idaho humane society to designate recipients of disbursements from the

fund. The committee members shall serve two (2) year terms and shall include one (1) licensed Idaho veterinarian, one (1) certified veterinarian technician, and three (3) representatives of the rescue, sheltering, and animal welfare community unaffiliated with the Idaho humane society. Subsequent appointments to the committee shall be made by the committee. The committee shall meet once per year to designate recipients of moneys from the Idaho humane society's pet lovers fund, which recipients may include Idaho licensed veterinarians, Idaho animal shelters, or Idaho nonprofit organizations. At the direction of the committee, moneys in the fund shall be disbursed to recipients designated by the committee and used to provide assistance with veterinary services, prioritizing canine and feline spay and neuter services, to low-income residents of Idaho. The Idaho humane society, the committee members, and any organization represented by a serving committee member shall be ineligible to receive disbursements from the fund.

Approved March 15, 2019

CHAPTER 90
(H.B. No. 84)

AN ACT

RELATING TO GENERAL BUSINESS CORPORATIONS; AMENDING SECTION 30-29-120, IDAHO CODE, TO REVISE PROVISIONS REGARDING REQUIREMENTS FOR DOCUMENTS AND EXTRINSIC FACTS AND TO REVISE TERMINOLOGY; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-123, IDAHO CODE, TO PROVIDE FOR THE EFFECTIVE DATE OF A FILED DOCUMENT; AMENDING SECTION 30-29-140, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 30-29-141, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICES AND OTHER COMMUNICATIONS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-142, IDAHO CODE, TO PROVIDE FOR THE NUMBER OF SHAREHOLDERS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-143, IDAHO CODE, TO PROVIDE FOR A QUALIFIED DIRECTOR; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-144, IDAHO CODE, TO PROVIDE FOR HOUSEHOLDING; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-145, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-146, IDAHO CODE, TO PROVIDE FOR DEFECTIVE CORPORATE ACTIONS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-147, IDAHO CODE, TO PROVIDE FOR RATIFICATION OF DEFECTIVE CORPORATE ACTIONS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-148, IDAHO CODE, TO PROVIDE FOR ACTION ON RATIFICATION; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-149, IDAHO CODE, TO PROVIDE FOR NOTICE REQUIREMENTS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-150, IDAHO CODE, TO PROVIDE FOR EFFECT ON RATIFICATION; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-151, IDAHO CODE, TO PROVIDE FOR FILINGS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-152, IDAHO CODE, TO PROVIDE FOR JUDICIAL PROCEEDINGS REGARDING VALIDITY OF CORPORATE ACTIONS; AMENDING SECTION 30-29-202, IDAHO CODE, TO REVISE PROVISIONS REGARDING ARTICLES OF INCORPORATION; AMENDING SECTION 30-29-203, IDAHO CODE, TO REVISE PROVISIONS REGARDING INCORPORATION; AMENDING SECTION 30-29-204, IDAHO CODE, TO REVISE PROVISIONS REGARDING LIABILITY FOR PREINCORPORATION TRANSACTIONS; AMENDING SECTION 30-29-205, IDAHO CODE, TO REVISE PROVISIONS REGARDING ORGANIZATION OF A CORPORATION; AMENDING SECTION 30-29-206, IDAHO CODE,

TO REVISE PROVISIONS REGARDING BYLAWS; AMENDING SECTION 30-29-207, IDAHO CODE, TO REVISE PROVISIONS REGARDING EMERGENCY BYLAWS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-208, IDAHO CODE, TO PROVIDE FOR FORUM SELECTION PROVISIONS; AMENDING SECTION 30-29-301, IDAHO CODE, TO REVISE PROVISIONS REGARDING PURPOSES; AMENDING SECTION 30-29-302, IDAHO CODE, TO REVISE PROVISIONS REGARDING GENERAL POWERS; AMENDING SECTION 30-29-303, IDAHO CODE, TO REVISE PROVISIONS REGARDING EMERGENCY POWERS; AMENDING SECTION 30-29-304, IDAHO CODE, TO REVISE PROVISIONS REGARDING LACK OF POWER TO ACT; AMENDING SECTION 30-29-601, IDAHO CODE, TO REVISE PROVISIONS REGARDING AUTHORIZED SHARES; AMENDING SECTION 30-29-602, IDAHO CODE, TO REVISE PROVISIONS REGARDING TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS; AMENDING SECTION 30-29-603, IDAHO CODE, TO REVISE PROVISIONS REGARDING ISSUED AND OUTSTANDING SHARES; AMENDING SECTION 30-29-604, IDAHO CODE, TO REVISE PROVISIONS REGARDING FRACTIONAL SHARES; AMENDING SECTION 30-29-620, IDAHO CODE, TO REVISE PROVISIONS REGARDING SUBSCRIPTION FOR SHARES BEFORE INCORPORATION; AMENDING SECTION 30-29-621, IDAHO CODE, TO REVISE PROVISIONS REGARDING ISSUANCE OF SHARES; AMENDING SECTION 30-29-622, IDAHO CODE, TO REVISE PROVISIONS REGARDING LIABILITY OF SHAREHOLDERS; AMENDING SECTION 30-29-623, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHARE DIVIDENDS; AMENDING SECTION 30-29-624, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHARE RIGHTS, OPTIONS, WARRANTS, AND AWARDS; AMENDING SECTION 30-29-625, IDAHO CODE, TO REVISE PROVISIONS REGARDING FORM AND CONTENT OF CERTIFICATES; AMENDING SECTION 30-29-626, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHARES WITHOUT CERTIFICATES; AMENDING SECTION 30-29-627, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESTRICTION ON TRANSFER OF SHARES; REPEALING SECTION 30-29-628, IDAHO CODE, RELATING TO EXPENSE OF ISSUE; AMENDING SECTION 30-29-630, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHAREHOLDERS' PREEMPTIVE RIGHTS; AMENDING SECTION 30-29-631, IDAHO CODE, TO REVISE PROVISIONS REGARDING A CORPORATION'S ACQUISITION OF ITS OWN SHARES; AMENDING SECTION 30-29-640, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISTRIBUTIONS TO SHAREHOLDERS; AMENDING SECTION 30-29-701, IDAHO CODE, TO REVISE PROVISIONS REGARDING ANNUAL MEETINGS; AMENDING SECTION 30-29-702, IDAHO CODE, TO REVISE PROVISIONS REGARDING SPECIAL MEETINGS; AMENDING SECTION 30-29-703, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURT-ORDERED MEETINGS; AMENDING SECTION 30-29-704, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTION WITHOUT A MEETING; AMENDING SECTION 30-29-705, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF A MEETING; AMENDING SECTION 30-29-706, IDAHO CODE, TO REVISE PROVISIONS REGARDING WAIVER OF NOTICE; AMENDING SECTION 30-29-707, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RECORD DATE FOR A MEETING; AMENDING SECTION 30-29-708, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONDUCT OF A MEETING; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-709, IDAHO CODE, TO PROVIDE FOR REMOTE PARTICIPATION IN SHAREHOLDERS' MEETINGS; AMENDING SECTION 30-29-720, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SHAREHOLDERS' LIST FOR A MEETING; AMENDING SECTION 30-29-721, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE VOTING ENTITLEMENT OF SHARES; AMENDING SECTION 30-29-722, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROXIES; AMENDING SECTION 30-29-723, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHARES HELD BY INTERMEDIARIES AND NOMINEES; AMENDING SECTION 30-29-724, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ACCEPTANCE OF VOTES AND OTHER INSTRUMENTS; AMENDING SECTION 30-29-725, IDAHO CODE, TO REVISE PROVISIONS REGARDING QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS; AMENDING SECTION 30-29-726, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTION BY SINGLE AND MULTIPLE VOTING GROUPS; AMENDING SECTION 30-29-727, IDAHO CODE, TO REVISE PROVISIONS REGARDING MODIFYING QUORUM OR VOTING REQUIREMENTS; AMENDING SECTION 30-29-728, IDAHO CODE, TO RE-

WISE PROVISIONS REGARDING VOTING FOR DIRECTORS AND CUMULATIVE VOTING; AMENDING SECTION 30-29-729, IDAHO CODE, TO REVISE PROVISIONS REGARDING INSPECTORS OF AN ELECTION; AMENDING SECTION 30-29-730, IDAHO CODE, TO REVISE PROVISIONS REGARDING VOTING TRUSTS; AMENDING SECTION 30-29-731, IDAHO CODE, TO REVISE PROVISIONS REGARDING VOTING AGREEMENTS; AMENDING SECTION 30-29-732, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHAREHOLDER AGREEMENTS; AMENDING SECTION 30-29-740, IDAHO CODE, TO REVISE PROVISIONS REGARDING PART DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 30-29-741, IDAHO CODE, TO REVISE PROVISIONS REGARDING STANDING; AMENDING SECTION 30-29-742, IDAHO CODE, TO REVISE PROVISIONS REGARDING DEMAND; AMENDING SECTION 30-29-744, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISMISSAL; AMENDING SECTION 30-29-745, IDAHO CODE, TO REVISE A PROVISION REGARDING DISCONTINUANCE OR SETTLEMENT; AMENDING SECTION 30-29-746, IDAHO CODE, TO REVISE PROVISIONS REGARDING PAYMENT OF EXPENSES; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-748, IDAHO CODE, TO PROVIDE FOR A SHAREHOLDER ACTION TO APPOINT A CUSTODIAN OR RECEIVER; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-749, IDAHO CODE, TO PROVIDE FOR JUDICIAL DETERMINATION OF CORPORATE OFFICES AND REVIEW OF ELECTIONS AND SHAREHOLDER VOTES; AMENDING SECTION 30-29-801, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REQUIREMENT FOR AND DUTIES OF THE BOARD OF DIRECTORS; AMENDING SECTION 30-29-802, IDAHO CODE, TO REVISE PROVISIONS REGARDING QUALIFICATIONS OF DIRECTORS; AMENDING SECTION 30-29-803, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE NUMBER AND ELECTION OF DIRECTORS; AMENDING SECTION 30-29-804, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ELECTION OF DIRECTORS BY CERTAIN CLASSES OR SERIES OF SHARES; AMENDING SECTION 30-29-805, IDAHO CODE, TO REVISE PROVISIONS REGARDING TERMS OF DIRECTORS GENERALLY; AMENDING SECTION 30-29-806, IDAHO CODE, TO REVISE PROVISIONS REGARDING STAGGERED TERMS FOR DIRECTORS; AMENDING SECTION 30-29-807, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RESIGNATION OF DIRECTORS; AMENDING SECTION 30-29-808, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REMOVAL OF DIRECTORS BY SHAREHOLDERS; AMENDING SECTION 30-29-809, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REMOVAL OF DIRECTORS BY A JUDICIAL PROCEEDING; AMENDING SECTION 30-29-810, IDAHO CODE, TO REVISE PROVISIONS REGARDING A VACANCY ON THE BOARD OF DIRECTORS; AMENDING SECTION 30-29-820, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN MEETINGS; AMENDING SECTION 30-29-821, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTION WITHOUT A MEETING; AMENDING SECTION 30-29-822, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF A MEETING; AMENDING SECTION 30-29-823, IDAHO CODE, TO REVISE PROVISIONS REGARDING WAIVER OF NOTICE; AMENDING SECTION 30-29-824, IDAHO CODE, TO REVISE PROVISIONS REGARDING A QUORUM AND VOTING; AMENDING SECTION 30-29-825, IDAHO CODE, TO REVISE PROVISIONS REGARDING COMMITTEES OF THE BOARD; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-826, IDAHO CODE, TO PROVIDE FOR THE SUBMISSION OF MATTERS FOR A SHAREHOLDER VOTE; AMENDING SECTION 30-29-830, IDAHO CODE, TO REVISE PROVISIONS REGARDING STANDARDS OF CONDUCT FOR DIRECTORS; AMENDING SECTION 30-29-831, IDAHO CODE, TO REVISE PROVISIONS REGARDING STANDARDS OF LIABILITY FOR DIRECTORS; AMENDING SECTION 30-29-833, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING DIRECTORS' LIABILITY FOR UNLAWFUL DISTRIBUTIONS; AMENDING SECTION 30-29-840, IDAHO CODE, TO REVISE PROVISIONS REGARDING OFFICERS; AMENDING SECTION 30-29-841, IDAHO CODE, TO REVISE PROVISIONS REGARDING FUNCTIONS OF OFFICERS; AMENDING SECTION 30-29-842, IDAHO CODE, TO REVISE PROVISIONS REGARDING STANDARDS OF CONDUCT FOR OFFICERS; AMENDING SECTION 30-29-843, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RESIGNATION AND REMOVAL OF OFFICERS; AMENDING SECTION 30-29-844, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CONTRACT RIGHTS OF OFFICERS; AMENDING

SECTION 30-29-850, IDAHO CODE, TO REMOVE DEFINITIONS AND TO REVISE DEFINITIONS; AMENDING SECTION 30-29-851, IDAHO CODE, TO REVISE PROVISIONS REGARDING PERMISSIBLE INDEMNIFICATION; AMENDING SECTION 30-29-852, IDAHO CODE, TO REVISE A PROVISION REGARDING MANDATORY INDEMNIFICATION; AMENDING SECTION 30-29-853, IDAHO CODE, TO REVISE PROVISIONS REGARDING AN ADVANCE FOR EXPENSES; AMENDING SECTION 30-29-854, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURT-ORDERED INDEMNIFICATION AND AN ADVANCE FOR EXPENSES; AMENDING SECTION 30-29-855, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION; AMENDING SECTION 30-29-856, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE INDEMNIFICATION OF OFFICERS; AMENDING SECTION 30-29-857, IDAHO CODE, TO REVISE PROVISIONS REGARDING INSURANCE; AMENDING SECTION 30-29-858, IDAHO CODE, TO REVISE PROVISIONS REGARDING VARIATION BY CORPORATE ACTION AND APPLICATION OF INDEMNIFICATION PROVISIONS; REPEALING SECTION 30-29-860, IDAHO CODE, RELATING TO DEFINITIONS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-860, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 30-29-861, IDAHO CODE, TO REVISE PROVISIONS REGARDING JUDICIAL ACTION; AMENDING SECTION 30-29-862, IDAHO CODE, TO REVISE PROVISIONS REGARDING DIRECTORS' ACTION; AMENDING SECTION 30-29-863, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHAREHOLDERS' ACTION; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-870, IDAHO CODE, TO PROVIDE FOR CERTAIN BUSINESS OPPORTUNITIES; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW PART 9, CHAPTER 29, TITLE 30, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR ACTION ON A PLAN OF DOMESTICATION, ARTICLES OF DOMESTICATION AND EFFECTIVENESS, THE EFFECT OF DOMESTICATION, ACTION ON A PLAN OF CONVERSION, ARTICLES OF CONVERSION AND EFFECTIVENESS, AND THE EFFECT OF CONVERSION; AMENDING SECTION 30-29-1001, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY TO AMEND; AMENDING SECTION 30-29-1003, IDAHO CODE, TO REVISE PROVISIONS REGARDING AMENDMENT BY THE BOARD OF DIRECTORS AND SHAREHOLDERS; AMENDING SECTION 30-29-1004, IDAHO CODE, TO REVISE PROVISIONS REGARDING VOTING ON AMENDMENTS BY VOTING GROUPS; AMENDING SECTION 30-29-1005, IDAHO CODE, TO REVISE PROVISIONS REGARDING AMENDMENT BY THE BOARD OF DIRECTORS; AMENDING SECTION 30-29-1006, IDAHO CODE, TO REVISE PROVISIONS REGARDING ARTICLES OF AMENDMENT; AMENDING SECTION 30-29-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESTATED ARTICLES OF INCORPORATION; AMENDING SECTION 30-29-1008, IDAHO CODE, TO REVISE PROVISIONS REGARDING AMENDMENT PURSUANT TO REORGANIZATION; AMENDING SECTION 30-29-1009, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EFFECT OF AMENDMENT; AMENDING SECTION 30-29-1020, IDAHO CODE, TO REVISE PROVISIONS REGARDING AUTHORITY TO AMEND; AMENDING SECTION 30-29-1021, IDAHO CODE, TO REVISE PROVISIONS REGARDING A BYLAW INCREASING A QUORUM OR VOTING REQUIREMENTS FOR DIRECTORS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-1022, IDAHO CODE, TO PROVIDE FOR BYLAW PROVISIONS RELATING TO THE ELECTION OF DIRECTORS; AMENDING THE HEADING FOR PART 11, CHAPTER 29, TITLE 30, IDAHO CODE, TO REVISE THE PART DESCRIPTION; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-1101, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 30-29-1104, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE; AMENDING SECTION 30-29-1105, IDAHO CODE, TO REVISE PROVISIONS REGARDING A MERGER BETWEEN A PARENT AND SUBSIDIARY OR BETWEEN SUBSIDIARIES; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-1107, IDAHO CODE, TO PROVIDE FOR THE EFFECT OF A MERGER OR SHARE EXCHANGE; AMENDING SECTION 30-29-1201, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISPOSITION OF ASSETS NOT REQUIRING SHAREHOLDER APPROVAL; AMENDING SECTION 30-29-1202, IDAHO CODE, TO REVISE PROVISIONS REGARDING SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS; AMENDING SECTION 30-29-1301, IDAHO

CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND TO REMOVE DEFINITIONS; AMENDING SECTION 30-29-1302, IDAHO CODE, TO REVISE PROVISIONS REGARDING A RIGHT TO APPRAISAL; AMENDING SECTION 30-29-1303, IDAHO CODE, TO REVISE PROVISIONS REGARDING ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL SHAREHOLDERS; AMENDING SECTION 30-29-1320, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF APPRAISAL RIGHTS; AMENDING SECTION 30-29-1321, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF INTENT TO DEMAND PAYMENT AND CONSEQUENCES OF VOTING OR CONSENTING; AMENDING SECTION 30-29-1322, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPRAISAL NOTICE AND FORM; AMENDING SECTION 30-29-1323, IDAHO CODE, TO REVISE PROVISIONS REGARDING PERFECTION OF RIGHTS AND THE RIGHT TO WITHDRAW; AMENDING SECTION 30-29-1324, IDAHO CODE, TO REVISE PROVISIONS REGARDING PAYMENT; AMENDING SECTION 30-29-1325, IDAHO CODE, TO REVISE PROVISIONS REGARDING AFTER ACQUIRED SHARES; AMENDING SECTION 30-29-1326, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PROCEDURE IF A SHAREHOLDER IS DISSATISFIED WITH A PAYMENT OR OFFER; AMENDING SECTION 30-29-1330, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURT ACTION; AMENDING SECTION 30-29-1331, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURT COSTS AND EXPENSES; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-1340, IDAHO CODE, TO PROVIDE THAT CERTAIN OTHER REMEDIES MAY BE LIMITED; AMENDING SECTION 30-29-1401, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS; AMENDING SECTION 30-29-1402, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISSOLUTION BY THE BOARD OF DIRECTORS OR SHAREHOLDERS; AMENDING SECTION 30-29-1403, IDAHO CODE, TO REVISE PROVISIONS REGARDING ARTICLES OF DISSOLUTION; AMENDING SECTION 30-29-1404, IDAHO CODE, TO REVISE PROVISIONS REGARDING A REVOCATION OF DISSOLUTION; AMENDING SECTION 30-29-1405, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EFFECT OF DISSOLUTION; AMENDING SECTION 30-29-1406, IDAHO CODE, TO REVISE PROVISIONS REGARDING KNOWN CLAIMS AGAINST A DISSOLVED CORPORATION; AMENDING SECTION 30-29-1407, IDAHO CODE, TO REVISE PROVISIONS REGARDING OTHER CLAIMS AGAINST A DISSOLVED CORPORATION; AMENDING SECTION 30-29-1408, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURT PROCEEDINGS; AMENDING SECTION 30-29-1409, IDAHO CODE, TO REVISE PROVISIONS REGARDING DIRECTOR DUTIES; AMENDING SECTION 30-29-1430, IDAHO CODE, TO REVISE PROVISIONS REGARDING GROUNDS FOR JUDICIAL DISSOLUTION; AMENDING SECTION 30-29-1431, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PROCEDURE FOR JUDICIAL DISSOLUTION; AMENDING SECTION 30-29-1432, IDAHO CODE, TO REVISE PROVISIONS REGARDING A RECEIVERSHIP OR CUSTODIANSHIP; AMENDING SECTION 30-29-1433, IDAHO CODE, TO REVISE PROVISIONS REGARDING A DECREE OF DISSOLUTION; AMENDING SECTION 30-29-1434, IDAHO CODE, TO REVISE PROVISIONS REGARDING AN ELECTION TO PURCHASE IN LIEU OF DISSOLUTION; AMENDING SECTION 30-29-1601, IDAHO CODE, TO REVISE PROVISIONS REGARDING CORPORATE RECORDS; AMENDING SECTION 30-29-1602, IDAHO CODE, TO REVISE PROVISIONS REGARDING INSPECTION RIGHTS OF SHAREHOLDERS; AMENDING SECTION 30-29-1603, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SCOPE OF AN INSPECTION RIGHT; AMENDING SECTION 30-29-1604, IDAHO CODE, TO REVISE PROVISIONS REGARDING A COURT-ORDERED INSPECTION; AMENDING SECTION 30-29-1605, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE INSPECTION RIGHTS OF DIRECTORS; REPEALING SECTION 30-29-1606, IDAHO CODE, RELATING TO AN EXCEPTION TO A NOTICE REQUIREMENT; REPEALING SECTION 30-29-1620, IDAHO CODE, RELATING TO FINANCIAL STATEMENTS FOR SHAREHOLDERS; REPEALING SECTION 30-29-1621, IDAHO CODE, RELATING TO OTHER REPORTS TO SHAREHOLDERS; AMENDING CHAPTER 29, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-29-1620, IDAHO CODE, TO PROVIDE FOR FINANCIAL STATEMENTS FOR SHAREHOLDERS; AMENDING SECTION 30-29-1701, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPLICATION TO EXISTING DOMESTIC CORPORATIONS; AMENDING SECTION 30-29-1702, IDAHO CODE, TO REVISE PROVISIONS

REGARDING APPLICATION TO EXISTING FOREIGN CORPORATIONS; AMENDING SECTION 30-29-1703, IDAHO CODE, TO REVISE PROVISIONS REGARDING SAVING PROVISIONS; AMENDING SECTION 30-29-1704, IDAHO CODE, TO REVISE A PROVISION REGARDING SEVERABILITY; AND AMENDING SECTION 30-2006, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 30-29-120, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-120. REQUIREMENTS FOR DOCUMENTS -- EXTRINSIC FACTS. ~~(1a) Except as otherwise permitted by subsection (3) of this section, a record~~ A document delivered to the secretary of state for filing pursuant to this chapter must be signed as follows typewritten or printed, or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

(b) Notwithstanding the provisions of section 30-21-209(b), Idaho Code, and except as otherwise permitted by subsection (e) of this section, the document must be signed:

(a1) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(e3) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(c) The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the document is signed. The document may, but need not, contain a corporate seal, attestation, acknowledgment, or verification.

(2d) Whenever a provision of this chapter, or section 30-22-107, Idaho Code, permits any of the terms of a plan or a filed document to be dependent upon facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a1) The manner in which the facts will operate upon the terms of the plan or filed document shall must be set forth in the plan or filed document.

(b2) The facts may include, ~~but are not limited to:~~

(i) Any of the following that are available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(ii) A determination or action by any person or body, including the corporation or any other party, to a plan or filed document; or

(iii) The terms of, or actions taken under, an agreement ~~or document~~ to which the corporation is a party, or any other agreement or document.

(e3) As used in this subsection:

(i) "Filed document" means a document filed ~~with~~ by the secretary of state under any provision of this chapter or chapter 21 or 22, title 30, Idaho Code, except section 30-21-213, Idaho Code, or part 5, chapter 21, title 30, Idaho Code; and

(ii) "Plan" means a plan of domestication, conversion, merger or share exchange.

(d4) The following provisions of a plan or filed document may not be made dependent upon facts outside the plan or filed document:

(i) The name and address of any person required in a filed document;

- (ii) The registered office, if any, of any entity required in a filed document;
- (iii) The registered agent of any entity required in a filed document;
- (iv) The number of authorized shares and designation of each class or series of shares;
- (v) The effective date of a filed document; and
- (vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(e5) If a provision of a filed document is made dependent upon a fact ascertainable outside of the filed document, and that fact is not neither ascertainable by reference to a source described in subsection (d) (2) (b) (i) of this section or a document that is a matter of public record, or nor have the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment to the filed document setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subsection paragraph are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

(3e) The annual report delivered to the secretary of state for filing under section 30-21-213, Idaho Code, shall be executed by one (1) of the persons identified in subsection (1a) of this section or by another person who is authorized by the board of directors to execute the report.

SECTION 2. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-123, Idaho Code, and to read as follows:

30-29-123. EFFECTIVE DATE OF FILED DOCUMENT. (a) If a filed document does not specify the time zone or place at which a date or time or both is to be determined, the date or time or both at which it becomes effective shall be those prevailing at the place of filing in this state.

(b) Unless otherwise provided in sections 30-29-145 through 30-29-152, Idaho Code, any document filed pursuant to this chapter may have a delayed effective date and, when accepted for filing, is effective as provided in section 30-21-203, Idaho Code, and this section.

SECTION 3. That Section 30-29-140, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-140. CHAPTER DEFINITIONS. As used iIn this chapter, unless otherwise specified:

(1) "Articles of incorporation" means the original articles of incorporation described in section 30-29-202, Idaho Code, all amendments thereof to the articles of incorporation, and any other documents permitted or required to be filed delivered for filing by a domestic business corporation with the secretary of state under any provision of this chapter that modify, amend, supplement, restate, or replace the articles of incorporation. If After an amendment of the articles of incorporation or any other document filed under this chapter that restates the articles of incorporation in their entirety, thenceforth the "articles" of incorporation shall not include any prior documents. When used with respect to a foreign corporation or a domestic or foreign nonprofit corporation, the "articles of incorporation" of such an entity means the document of such entity that is equivalent to the articles of incorporation of a domestic business corporation.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Beneficial shareholder" means a person who owns the beneficial interest in shares, that may be a record shareholder or a person on whose behalf shares are registered in the name of an intermediary or nominee.

(4) "Conspicuous" means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(45) "Corporation," "domestic corporation," "business corporation," or "domestic business corporation" means a corporation for profit that is not a foreign corporation, incorporated under ~~or subject to the provisions of this chapter.~~

(56) "Distribution" means a direct or indirect transfer of ~~money cash~~ or other property, except ~~its a corporation's own shares,~~ or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a ~~declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; a distribution of liquidation; or otherwise.~~

(7) "Document" means any tangible medium on which information is inscribed, and includes handwritten, typed, printed, or similar instruments, and copies of such instruments; or an electronic record.

~~(6) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of this state.~~

(8) "Effective date," when referring to a record filed by the secretary of state, means the time and date determined in accordance with section 30-21-203 or 30-29-123(b), Idaho Code.

(9) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10) "Electronic record" means information that is stored in an electronic or other nontangible medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 30-29-141(j), Idaho Code.

(711) "Electronic transmission" or "electronically transmitted" means any form or process of communication not directly involving the physical transfer of paper, or another tangible medium, that is suitable for the retention, retrieval and reproduction in ~~written form~~ of information by the recipient and is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 30-29-141(j), Idaho Code.

(812) "Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign nonprofit corporation.

(913) "Eligible interests" means interests ~~or memberships~~ in eligible entities.

(104) "Employee" includes an officer but not a director. A director may accept duties that make ~~him the director~~ also an employee.

~~(11) The phrase "facts objectively ascertainable outside the plan or filed document" is as set forth in section 30-29-120(2), Idaho Code.~~

(15) "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

(126) "Foreign corporation" or "foreign business" means a corporation incorporated under a law other than the law of this state which would be a business corporation if incorporated under the laws of this state.

(137) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of this state, which would be a nonprofit corporation if incorporated under the laws of this state.

~~(14) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this state.~~

~~(15) "Governmental subdivision" includes authority, county, district and municipality.~~

~~(16) "Membership" means the right of a member in a domestic or foreign nonprofit corporation.~~

~~(17) "Notice" is defined in section 30-29-141, Idaho Code.~~

~~(18) "Organic document" means a public organic document or a private organic document.~~

(18) "Foreign registration statement" means the foreign registration statement described in section 30-21-503, Idaho Code.

(19) "Includes" and "including" denote a partial definition or a nonexclusive list.

(20) "Individual" means a natural person.

(1921) "Owner Interest holder liability" means:

(i) pPersonal liability for a debt, obligation, or other liability of a domestic or foreign business or nonprofit corporation or unincorporated other entity that is imposed on a person:

(aA) Solely by reason of the person's status as a shareholder, member or other interest holder; or

(bB) By the articles of incorporation, bylaws or an organic document under a provision of the domestic corporation or the organic law rules of an the other entity authorizing the articles of incorporation, bylaws or an organic document to that make one (1) or more specified shareholders, members or interest holders, or categories of shareholders or interest holders, liable in their capacity as shareholders, members or interest holders for all or specified debts, obligations or liabilities of the corporation or other entity; or

(ii) An obligation of a shareholder or interest holder under the articles of incorporation of a domestic corporation or the organic rules of another entity or to contribute to the corporation or other entity.

For purposes of the foregoing, except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of another entity, interest holder liability arises under paragraph (i) of this subsection when the corporation or other entity incurs the liability.

(22) "Means" denotes an exhaustive definition.

(23) "Membership" [Reserved.]

(204) "Record date" means the date established under part 6 or 7 of this chapter on which a corporation determines fixed for determining the identity of its the corporation's shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date uUnless another time for doing so is specified when the record date is fixed, the determination shall be made as of the close of business at the principal office of the corporation on the date so fixed.

(25) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the person identified as the beneficial owner of shares in a beneficial ownership certificate pursuant to section 30-29-723, Idaho Code, on file with the corporation to the extent of the rights granted by such certificate.

(216) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under section 30-29-840(3c), Idaho Code, for custody of to maintain the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(27) "Share exchange" means an interest exchange as defined in section 30-22-102 (10), Idaho Code.

~~(228) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation a record shareholder.~~

~~(2329) "Shares" means the units into which the proprietary interests in a domestic or foreign corporation are divided.~~

~~(2430) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.~~

~~(2531) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares, but not "outstanding" shares.~~

~~(2632) "Unincorporated entity" means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not any of the following: a domestic or foreign business or nonprofit corporation, a series of a limited liability company or of another type of entity, an estate, a trust, a state, the United States, or a foreign government. The term includes, without limitation, a general partnership, limited liability company, limited partnership, business trust, joint stock association and unincorporated nonprofit association.~~

~~(2733) "United States" includes district, authority, bureau, commission, department and any other agency of the United States.~~

(34) "Unrestricted voting trust beneficial owner" means, with respect to any shareholder rights, a voting trust beneficial owner whose entitlement to exercise the shareholder right in question is not inconsistent with the voting trust agreement.

~~(2835) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.~~

~~(2936) "Voting power" means the current power to vote in the election of directors.~~

(37) "Voting trust beneficial owner" means an owner of a beneficial interest in shares of the corporation held in a voting trust established pursuant to section 30-29-730 (a), Idaho Code.

(38) "Writing" or "written" means any information in the form of a document.

SECTION 4. That Section 30-29-141, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-141. NOTICES AND OTHER COMMUNICATIONS. (1a) Notice under this chapter must be in writing unless oral notice is reasonable under in the circumstances. Notice by electronic transmission is written notice Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

~~(2b) A nNotice or other communication may be communicated in person; by mail or other given by any method of delivery; or by telephone, voice mail or other, except that electronic means transmissions must be in accordance with this section. If these forms the methods of personal notice delivery are impracticable, notice or other communication may be communicated by given by means of a broad non-exclusionary distribution to the public that may include a newspaper of general circulation in the area where published, or by~~

radio, television, or other form methods of public broadcast communication distribution that the corporation has previously identified to its shareholders.

~~(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective:~~

~~(a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or~~

~~(b) When electronically transmitted to the shareholder in a manner authorized by the shareholders.~~

~~(4) Written notice to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to its registered agent or to the corporation or its secretary at its correspondence address shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.~~

~~(5) Except as provided in subsection (3) of this section, written notice, if in a comprehensible form, is effective at the earliest of the following:~~

~~(a) When received;~~

~~(b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;~~

~~(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.~~

~~(6) Oral notice is effective when communicated, if communicated in a comprehensible manner.~~

(c) Notice or other communication to a domestic corporation or to a foreign corporation registered to do business in this state may be delivered to the corporation's registered agent at its registered office or to the secretary at the corporation's principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its foreign registration statement.

(d) A notice or other communications may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (j) of this section.

(e) Any consent under subsection (d) of this section may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if the corporation is unable to deliver two (2) consecutive electronic transmissions given by the corporation in accordance with such consent, and such inability becomes known to the secretary or an assistant secretary or to the transfer agent, or other person responsible for the giving of notice or other communications; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(f) Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

(1) It enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission; and

(2) It is in a form capable of being processed by that system.

(g) Receipt of an electronic acknowledgment from an information processing system described in subsection (f) (1) of this section establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(h) An electronic transmission is received under this section even if no person is aware of its receipt.

(i) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(1) If in a physical form, the earliest of when it is actually received, or when it is left at:

(i) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation under section 30-29-1601(d), Idaho Code;

(ii) A director's residence or usual place of business; or

(iii) The corporation's principal office;

(2) If mailed postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail;

(3) If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received, or:

(i) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(ii) Five (5) days after it is deposited in the United States mail;

(4) If an electronic transmission, when it is received as provided in subsection (f) of this section; and

(5) If oral, when communicated.

(j) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if the electronic transmission is otherwise retrievable in perceivable form, and the sender and the recipient have consented in writing to the use of such form of electronic transmission.

(7k) If this chapter prescribes notice requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements for notices or other communications, not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

(1) In the event that any provisions of this chapter are deemed to modify, limit, or supersede the federal electronic signatures in global and national commerce act, 15 U.S.C. 7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal act.

SECTION 5. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-142, Idaho Code, and to read as follows:

30-29-142. NUMBER OF SHAREHOLDERS. (a) For purposes of this chapter, the following identified as a shareholder in a corporation's current record of shareholders constitutes one (1) shareholder:

(1) Three (3) or fewer co-owners;

(2) A corporation, partnership, trust, estate, or other entity; or

(3) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(b) For purposes of this chapter, shareholdings registered in substantially similar names constitute one (1) shareholder if it is reasonable to believe that the names represent the same person.

SECTION 6. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-143, Idaho Code, and to read as follows:

30-29-143. **QUALIFIED DIRECTOR.** (a) A "qualified director" is a director who, at the time action is to be taken under:

(1) Section 30-29-202(b)(6), Idaho Code, is not a director to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply or who has a material relationship with any other person to whom the limitation or elimination would apply;

(2) Section 30-29-744, Idaho Code, does not have a material interest in the outcome of the proceeding or a material relationship with a person who has such an interest;

(3) Section 30-29-853 or 30-29-855, Idaho Code, is not a party to the proceeding, is not a director as to whom a transaction is a director's conflicting interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under section 30-29-870, Idaho Code, which transaction or disclaimer is challenged in the proceeding, and does not have a material relationship with a director described in this subsection;

(4) Section 30-29-862, Idaho Code, is not a director as to whom the transaction is a director's conflicting interest transaction or who has a material relationship with another director as to whom the transaction is a director's conflicting interest transaction; or

(5) Section 30-29-870, Idaho Code, is not a director who pursues or takes advantage of the business opportunity, directly or indirectly through or on behalf of another person or has a material relationship with a director or officer who pursues or takes advantage of the business opportunity, directly or indirectly through or on behalf of another person.

(b) For purposes of this section:

(1) "Material interest" means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken; and

(2) "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

(c) The presence of one (1) or more of the following circumstances shall not automatically prevent a director from being a qualified director:

(1) Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person who has a material relationship with that director, acting alone or participating with others;

(2) Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is or was also a director; or

(3) With respect to action to be taken under section 30-29-744, Idaho Code, status as a named defendant, as a director against whom action is demanded, or as a director who approved the conduct being challenged.

SECTION 7. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-144, Idaho Code, and to read as follows:

30-29-144. HOUSEHOLDING. (a) A corporation has delivered written notice or any other report or statement under this chapter, the articles of incorporation, or the bylaws to all shareholders who share a common address if:

- (1) The corporation delivers one (1) copy of the notice, report, or statement to the common address;
- (2) The corporation addresses the notice, report, or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders in a form to which each of those shareholders has consented; and
- (3) Each of those shareholders consents to delivery of a single copy of such notice, report, or statement to the shareholders' common address.

(b) Any such consent described in subsections (a) (2) or (a) (3) of this section shall be revocable by any of such shareholders who deliver written notice of revocation to the corporation. If such written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than thirty (30) days after delivery of the written notice of revocation.

(c) Any shareholder who fails to object by written notice to the corporation, within sixty (60) days of written notice by the corporation of its intention to deliver single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection (a) of this section shall be deemed to have consented to receiving such single copy at the common address; provided that the notice of intention explains that consent may be revoked and the method for revoking.

SECTION 8. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-145, Idaho Code, and to read as follows:

30-29-145. DEFINITIONS. For purposes of sections 30-29-145 through 30-29-152, Idaho Code:

(1) "Corporate action" means any action taken by or on behalf of the corporation, including any action taken by the incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.

(2) "Date of the defective corporate action" means the date, or the approximate date if the exact date is unknown, the defective corporate action was purported to have been taken.

(3) "Defective corporate action" means any corporate action purportedly taken that is, and at the time such corporate action was purportedly taken, would have been within the power of the corporation, but is void or voidable due to a failure of authorization, and is an overissue.

(4) "Failure of authorization" means the failure to authorize, approve or otherwise effect a corporate action in compliance with the provisions of this chapter, the articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

(5) "Overissue" means the purported issuance of shares of a class or series in excess of the number of shares of a class or series the corporation has the power to issue under section 30-29-601, Idaho Code, at the time of such issuance; or shares of any class or series that is not then authorized for issuance by the articles of incorporation.

(6) "Putative shares" means the shares of any class or series, including shares issued upon exercise of rights, options, warrants, or other securities convertible into shares of the corporation or interests with respect to such shares that were created or issued as a result of a defective corporate action that, but for any failure of authorization, would constitute valid shares or cannot be determined by the board of directors to be valid shares.

(7) "Valid shares" means the shares of any class or series that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under sections 30-29-145 through 30-29-152, Idaho Code.

(8) "Validation effective time" with respect to any defective corporate action ratified under sections 30-29-145 through 30-29-152, Idaho Code, means the later of:

(a) The time at which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the time at which the notice required by section 30-29-149, Idaho Code, becomes effective in accordance with section 30-29-141, Idaho Code; and

(b) The time at which any articles of validation filed in accordance with section 30-29-151, Idaho Code, become effective.

The validation effective time shall not be affected by the filing or pendency of a judicial proceeding under section 30-29-152, Idaho Code, or otherwise, unless otherwise ordered by the court.

SECTION 9. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-146, Idaho Code, and to read as follows:

30-29-146. DEFECTIVE CORPORATE ACTIONS. (a) A defective corporate action shall not be void or voidable if ratified in accordance with section 30-29-147, Idaho Code, or validated in accordance with section 30-29-152, Idaho Code.

(b) Ratification under section 30-29-147, Idaho Code, or validation under section 30-29-152, Idaho Code, shall not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification in accordance with sections 30-29-145 through 30-29-152, Idaho Code, shall not, of itself, affect the validity or effectiveness of any corporate action properly ratified under common law or otherwise, nor shall it create a presumption that any such corporate action is or was a defective corporate action or void or voidable.

(c) In the case of an overissue, putative shares shall be valid shares effective as of the date originally issued or purportedly issued upon:

(1) The effectiveness under sections 30-29-145 through 30-29-152, Idaho Code, and under part 10 of this chapter or an amendment to the articles of incorporation authorizing, designating, or creating such shares; or

(2) The effectiveness of any other corporate action under sections 30-29-145 through 30-29-152, Idaho Code, ratifying the authorization, designation, or creation of such shares.

SECTION 10. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-147, Idaho Code, and to read as follows:

30-29-147. RATIFICATION OF DEFECTIVE CORPORATE ACTIONS. (a) To ratify a defective corporate action under this section, other than the ratification of an election of the initial board of directors under subsection (b) of this section, the board of directors shall take action ratifying the action in accordance with section 30-29-148, Idaho Code, stating:

(1) The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued;

(2) The date of the defective corporate action;

(3) The nature of the failure of authorization with respect to the defective corporate action to be ratified; and

(4) That the board of directors approves the ratification of the defective corporate action.

(b) In the event that a defective corporate action to be ratified relates to the election of the initial board of directors of the corporation under section 30-29-205(a)(2), Idaho Code, a majority of the persons who, at the time of the ratification, are exercising the powers of directors, may take an action stating:

(1) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation;

(2) The earlier of the date on which such persons first took such action or were purported to have been elected as the initial board of directors; and

(3) That the ratification of the election of such person or persons as the initial board of directors is approved.

(c) If any provision of this chapter, the articles of incorporation or bylaws, any corporate resolution or any plan or agreement to which the corporation is a party in effect at the time action under subsection (a) of this section is taken, requires shareholder approval or would have required shareholder approval at the date of the occurrence of the defective corporate action, the ratification of the defective corporate action approved in the action taken by the directors under subsection (a) of this section shall be submitted to the shareholders for approval in accordance with section 30-29-148, Idaho Code.

(d) Unless otherwise provided in the action taken by the board of directors under subsection (a) of this section, after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

SECTION 11. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-148, Idaho Code, and to read as follows:

30-29-148. ACTION ON RATIFICATION. (a) The quorum and voting requirements applicable to a ratifying action by the board of directors under section 30-29-147(a), Idaho Code, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

(b) If the ratification of the defective corporate action requires approval by the shareholders under section 30-29-147(c), Idaho Code, and if the approval is to be given at a meeting, the corporation shall notify each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of defective corporate action, provided that notice shall not be required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one (1) of the purposes, of the meeting is to consider ratification of a defective corporate action and must be accompanied by either a copy of the action taken by the board of directors in accordance with section 30-29-147(a), Idaho Code, or the information required by paragraphs (1) through (4) of subsection (a) of section 30-29-147, Idaho Code, and a statement that any claim that the ratification of such defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within 120 days from the applicable validation effective time.

(c) Except as provided in subsection (d) of this section with respect to the voting requirements to ratify the election of a director, the quorum and voting requirements applicable to the approval by the shareholders required

by section 30-29-147(c), Idaho Code, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time of such shareholder approval.

(d) The approval by shareholders to ratify the election of a director requires that the votes cast within the voting group favoring such ratification exceed the votes cast opposing such ratification of the election at a meeting at which a quorum is present.

(e) Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under section 30-29-147(c), Idaho Code, and without giving effect to any ratification of putative shares that becomes effective as a result of such vote, shall neither be entitled to vote nor counted for quorum purposes in any vote to approve the ratification of any defective corporate action.

(f) If the approval under this section of putative shares would result in an overissue, in addition to the approval required by section 30-29-147, Idaho Code, approval of an amendment to the articles of incorporation under part 10 of this chapter to increase the number of shares of an authorized class or series, or to authorize the creation of a class or series of shares so there would be no overissue, shall also be required.

SECTION 12. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-149, Idaho Code, and to read as follows:

30-29-149. NOTICE REQUIREMENTS. (a) Unless shareholder approval is required under section 30-29-147(c), Idaho Code, prompt notice of an action taken under section 30-29-147, Idaho Code, shall be given to each holder of valid and putative shares, regardless of whether entitled to vote, as of the date of such action by the board of directors and the date of the defective corporate action ratified, provided that notice shall not be required to be given to holders of valid and putative shares whose identities or addresses for notice cannot be determined from the records of the corporation.

(b) The notice must contain either a copy of the action taken by the board of directors in accordance with subsection (a) or (b) of section 30-29-147, Idaho Code, or the information required by paragraphs (1) through (4) of subsection (a) of section 30-29-147, Idaho Code, or paragraphs (1) through (3) of subsection (b) of section 30-29-147, Idaho Code, as applicable; and a statement that any claim that the ratification of the defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within 120 days from the applicable validation effective time.

(c) No notice under this section is required with respect to any action required to be submitted to shareholders for approval under section 30-29-147(c), Idaho Code, if notice is given in accordance with section 30-29-148(b), Idaho Code.

(d) A notice required by this section may be given in any manner permitted by section 30-29-141, Idaho Code, and, for any corporation subject to the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934, may be given by means of a filing or furnishing of such notice with the United States securities and exchange commission.

SECTION 13. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-150, Idaho Code, and to read as follows:

30-29-150. EFFECT OF RATIFICATION. From and after the validation effective time, and without regard to the one hundred twenty (120) day period during which a claim may be brought under section 30-29-152, Idaho Code:

(a) Each defective corporate action ratified in accordance with section 30-29-147, Idaho Code, shall not be void or voidable as a result of the failure of authorization identified in the action taken under subsection (a) or (b) of section 30-29-147, Idaho Code, and shall be deemed a valid corporate action effective as of the date of the defective corporate action;

(b) The issuance of each putative share or fraction of a putative share purportedly issued pursuant to a defective corporate action identified in the action taken under section 30-29-147, Idaho Code, shall not be void or voidable, and each such putative share or fraction of a putative share shall be deemed to be an identical share or fraction of a valid share as of the time it was purportedly issued; and

(c) Any corporate action taken subsequent to the defective corporate action ratified in accordance with sections 30-29-145 through 30-29-152, Idaho Code, in reliance on such defective corporate action having been validly effected and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action shall be valid as of the time taken.

SECTION 14. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-151, Idaho Code, and to read as follows:

30-29-151. FILINGS. (a) If the defective corporate action ratified under sections 30-29-145 through 30-29-152, Idaho Code, would have required under any other section of this chapter a filing in accordance with this chapter, then, regardless of whether a filing was previously made in respect of such defective corporate action and in lieu of a filing otherwise required by this chapter, the corporation shall file articles of validation in accordance with this section, and such articles of validation shall serve to amend or substitute for any other filing with respect to such defective corporate action required by this chapter.

(b) The articles of validation must set forth:

(1) The defective corporate action that is the subject of the articles of validation including, in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued, and the date or dates upon which such putative shares were purported to have been issued;

(2) The date of the defective corporate action;

(3) The nature of the failure of authorization in respect of the defective corporate action;

(4) A statement that the defective corporate action was ratified in accordance with section 30-29-147, Idaho Code, including the date on which the board of directors ratified such defective corporate action and the date, if any, on which the shareholders approved the ratification of such defective corporate action; and

(5) The information required by subsection (c) of this section.

(c) The articles of validation must also contain the following information:

(1) If a filing was previously made in respect of the defective corporate action and no changes to such filing are required to give effect to the ratification of such defective corporate action in accordance with section 30-29-147, Idaho Code, the articles of validation must set forth the name, title, and filing date of the filing previously made and any articles of correction to that filing and a statement that a copy of the filing previously made, together with any articles of correction to that filing, is attached as an exhibit to the articles of validation;

(2) If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action in accordance with sec-

tion 30-29-147, Idaho Code, the articles of validation must set forth the name, title, and filing date of the filing previously made and any articles of correction to that filing; a statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and the date and time that such filing is deemed to have become effective; or

(3) If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified under section 30-29-147, Idaho Code, would have required a filing under any other section of this chapter, the articles of validation must set forth a statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and the date and time that such filing is deemed to have become effective.

SECTION 15. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-152, Idaho Code, and to read as follows:

30-29-152. JUDICIAL PROCEEDINGS REGARDING VALIDITY OF CORPORATE ACTIONS. (a) Upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified under section 30-29-147, Idaho Code, or any other person claiming to be substantially and adversely affected by a ratification under section 30-29-147, Idaho Code, the Idaho district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, may:

- (1) Determine the validity and effectiveness of any corporate action or defective corporate action;
- (2) Determine the validity and effectiveness of any ratification under section 30-29-147, Idaho Code;
- (3) Determine the validity of any putative shares; and
- (4) Modify or waive any of the procedures specified in section 30-29-147, Idaho Code, or 30-29-148, Idaho Code, to ratify a defective corporate action.

(b) In connection with an action under this section, the court may make such findings or orders, and take into account any factors or considerations regarding such matters as it deems proper under the circumstances.

(c) Service of process of the application under subsection (a) of this section on the corporation may be made in any manner provided by statute of this state or by rule of the applicable court for service on the corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require notice of the action be provided to other persons specified by the court and permit such other persons to intervene in the action.

(d) Notwithstanding any other provision of this section or otherwise under applicable law, any action asserting that the ratification of any defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty (120) days of the validation effective time.

SECTION 16. That Section 30-29-202, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-202. ARTICLES OF INCORPORATION. (1a) The articles of incorporation must set forth:

- (a1) A corporate name for the corporation that satisfies the requirements of sections 30-21-301 and 30-21-302 (a), Idaho Code;
 - (b2) The number of shares the corporation is authorized to issue;
 - (e3) The information required by section 30-21-404 (a), Idaho Code; and
 - (d4) The name and address of each incorporator.
- (2b) The articles of incorporation may set forth:
- (a1) The names and addresses of the individuals who are to serve as the initial directors;
 - (b2) Provisions not inconsistent with law regarding:
 - (i) The purpose or purposes for which the corporation is organized;
 - (ii) Managing the business and regulating the affairs of the corporation;
 - (iii) Defining, limiting and regulating the powers of the corporation, its board of directors, and shareholders;
 - (iv) A par value for authorized shares or classes of shares; or
 - (v) ~~The imposition of personal interest holder liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;~~
 - (e3) Any provision that under this chapter is required or permitted to be set forth in the bylaws;
 - (d4) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:
 - (i) The amount of a financial benefit received by a director to which ~~he~~ the director is not entitled;
 - (ii) An intentional infliction of harm on the corporation or the shareholders;
 - (iii) A violation of section 30-29-8332, Idaho Code; or
 - (iv) An intentional violation of criminal law; ~~and~~
 - (e5) A provision permitting or making obligatory indemnification of a director for liability, as defined in section 30-29-850 (53), Idaho Code, to any person for any action taken, or any failure to take any action, as a director, except liability for:
 - (i) Receipt of a financial benefit to which ~~he~~ the director is not entitled;
 - (ii) An intentional infliction of harm on the corporation or its shareholders;
 - (iii) A violation of section 30-29-8332, Idaho Code; or
 - (iv) An intentional violation of criminal law; ~~and~~
- (6) A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one (1) or more classes or categories of, business opportunities, before the pursuit or taking of the opportunity by the director or other person; provided that any application of such a provision to an officer or a related person of that officer also requires approval of that application by the board of directors, subsequent to the effective date of the provision, by action of qualified directors taken in compliance with the same procedures as are set forth in section 30-29-862, Idaho Code; and may be limited by the authorizing action of the board.
- (3c) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4d) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 30-29-120 (2d) , Idaho Code.

(e) As used in this section, "related person" has the meaning specified in section 30-29-860, Idaho Code.

SECTION 17. That Section 30-29-203, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-203. INCORPORATION. (1a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

(2b) The secretary of state's filing of the articles of incorporation is ~~prima facie~~ conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

SECTION 18. That Section 30-29-204, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-204. LIABILITY FOR PREINCORPORATION TRANSACTIONS. All persons purporting to act as or on behalf of a corporation, ~~when knowing~~ there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting.

SECTION 19. That Section 30-29-205, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-205. ORGANIZATION OF CORPORATION. (1a) After incorporation:

(a1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting ~~and shall hold an organizational meeting at the call of a majority of the incorporators; or~~

(2) If initial directors are not named in the articles of incorporation, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect initial directors and complete the organization of the corporation; or

(ii) To elect a board of directors, who shall complete the organization of the corporation.

(2b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one (1) or more written consents describing the action taken and signed by each incorporator.

(3c) An organizational meeting may be held in or out of this state.

SECTION 20. That Section 30-29-206, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-206. BYLAWS. (1a) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(2b) The bylaws of a corporation may contain any provision ~~for managing the business and regulating the affairs of the corporation~~ that is not inconsistent with law or the articles of incorporation.

(c) The bylaws may contain one (1) or both of the following provisions:

(1) A requirement that if the corporation solicits proxies or consents with respect to an election of directors, the corporation include in its proxy statement and any form of its proxy or consent, to the extent and

subject to such procedures or conditions as are provided in the bylaws, one (1) or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors; and

(2) A requirement that the corporation reimburse the expenses incurred by a shareholder in soliciting proxies or consents in connection with an election of directors, to the extent and subject to such procedures and conditions as are provided in the bylaws, provided that no bylaw so adopted shall apply to elections for which any record date precedes its adoption.

(d) Notwithstanding section 30-29-1020 (b) (2), Idaho Code, the shareholders in amending, repealing, or adopting a bylaw described in subsection (c) of this section may not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in or to add any procedure or condition to such a bylaw to provide for a reasonable, practical, and orderly process.

SECTION 21. That Section 30-29-207, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-207. EMERGENCY BYLAWS. (1a) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4d) of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(a1) Procedures for calling a meeting of the board of directors;

(b2) Quorum requirements for the meeting; and

(e3) Designation of additional or substitute directors.

(2b) All provisions of the regular bylaws not inconsistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(3c) Corporate action taken in good faith in accordance with the emergency bylaws:

(a1) Binds the corporation; and

(b2) May not be used to impose liability on a corporate director, officer, employee or agent of the corporation.

(4d) An emergency exists for purposes of this section if a quorum of the corporation's board of directors cannot readily be assembled because of some catastrophic event.

SECTION 22. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-208, Idaho Code, and to read as follows:

30-29-208. FORUM SELECTION PROVISIONS. (a) The articles of incorporation or the bylaws may require that any or all internal corporate claims shall be brought exclusively in any specified court or courts of this state and, if so specified, in any additional courts in this state or in any other jurisdictions with which the corporation has a reasonable relationship.

(b) A provision of the articles of incorporation or bylaws adopted under subsection (a) of this section shall not have the effect of conferring jurisdiction on any court or over any person or claim, and shall not apply if none of the courts specified by such provision has the requisite personal and subject matter jurisdiction. If the court or courts of this state specified in a provision adopted under subsection (a) of this section do not have the requisite personal and subject matter jurisdiction and another court of this state does have such jurisdiction, then the internal corporate claim may be brought in such other court of this state, notwithstanding that such other

court of this state is not specified in such provision, and in any other court specified in such provision that has the requisite jurisdiction.

(c) No provision of the articles of incorporation or the bylaws may prohibit bringing an internal corporate claim in the courts of this state or require such claims to be determined by arbitration.

(d) As used in this section, "internal corporate claim" means any claim that is based upon a violation of a duty under the laws of this state by a current or former director, officer, or shareholder in such capacity; any derivative action or proceeding brought on behalf of the corporation; any action asserting a claim arising pursuant to any provision of this chapter or the articles of incorporation or bylaws; or any action asserting a claim governed by the internal affairs doctrine that is not included in this section.

SECTION 23. That Section 30-29-301, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-301. PURPOSES. (1a) Every corporation incorporated under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(2b) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

SECTION 24. That Section 30-29-302, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-302. GENERAL POWERS. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including ~~without limitation power:~~

(1a) To sue and be sued, complain and defend in its corporate name;

(2b) To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(3c) To make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;

(4d) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property wherever located;

(5e) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6f) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

(7g) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other securities and obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises or income;

(8h) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(9i) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other entity;

(10j) To conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state;

(11k) To elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12l) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees and agents;

(13m) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(14n) To transact any lawful business that will aid governmental policy; and

(15o) To make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

SECTION 25. That Section 30-29-303, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-303. EMERGENCY POWERS. (1a) In anticipation of or during an emergency defined in subsection (4d) of this section, the board of directors of a corporation may:

(a1) Modify lines of succession to accommodate the incapacity of any director, officer, employee or agent; and

(b2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(2b) During an emergency defined in subsection (4d) of this section, unless emergency bylaws provide otherwise:

(a1) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, ~~including by publication and radio~~; and

(b2) One (1) or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(3c) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(a1) Binds the corporation; and

(b2) May not be used to impose liability on a ~~corporate~~ director, officer, employee or agent.

(4d) An emergency exists for purposes of this section if a quorum of the ~~corporation's~~ board of directors cannot readily be assembled because of some catastrophic event.

SECTION 26. That Section 30-29-304, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-304. ~~ULTRA VIRES~~ LACK OF POWER TO ACT. (1a) Except as provided in subsection (2b) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(2b) A corporation's power to act may be challenged:

(a1) In a proceeding by a shareholder against the corporation to enjoin the act;

(b2) In a proceeding by the corporation, directly, derivatively or through a receiver, trustee or other legal representative, against an incumbent or former director, officer, employee or agent of the corporation; or

(e3) In a proceeding by the attorney general under section 30-29-1430, Idaho Code.

(3c) In a shareholder's proceeding under subsection (2b) (a1) of this section to enjoin an unauthorized corporate act, the court may enjoin or set

aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

SECTION 27. That Section 30-29-601, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-601. AUTHORIZED SHARES. (1a) The articles of incorporation must set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one (1) class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class or series and ~~must describe, prior to~~ before the issuance of shares of a class or series, describe the terms, including the preferences, rights and limitations of that class or series. Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights and limitations, that are identical with those of other shares of the same class or series.

(2b) The articles of incorporation must authorize:

(a1) One (1) or more classes or series of shares that together have unlimited full voting rights; and

(b2) One (1) or more classes or series of shares, which may be the same class ~~or~~, classes, or series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(3c) The articles of incorporation may authorize one (1) or more classes or series of shares that:

(a1) Have special, conditional or limited voting rights, or no right to vote, except to the extent otherwise provided by this chapter;

(b2) Are redeemable or convertible as specified in the articles of incorporation:

(i) At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event;

(ii) For cash, indebtedness, securities or other property; and

(iii) At prices and in amounts specified or determined in accordance with a formula;

(e3) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative or partially cumulative; or

(d4) Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation.

(4d) Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 30-29-120 (2d), Idaho Code.

(5e) Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

(6f) The description of the preferences, rights and limitations of classes or series of shares in subsection (3c) of this section is not exhaustive.

SECTION 28. That Section 30-29-602, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-602. TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS. (1a) If the articles of incorporation so provide, the board of directors is authorized, without shareholder approval, to:

(a~~1~~) Classify any unissued shares into one (1) or more classes or into one (1) or more series within a class;

(b~~2~~) Reclassify any unissued shares of any class into one (1) or more classes or into one (1) or more series within one (1) or more classes; or

(e~~3~~) Reclassify any unissued shares of any series of any class into one (1) or more classes or into one (1) or more series within a class.

(2~~b~~) If the board of directors acts pursuant to subsection (1~~a~~) of this section, it ~~must~~ shall determine the terms, including the preferences, rights, and limitations, to the same extent permitted under section 30-29-601, Idaho Code, of:

(a~~1~~) Any class of shares before the issuance of any shares of that class; or

(b~~2~~) Any series within a class before the issuance of any shares of that series.

(3~~c~~) Before issuing any shares of a class or series created under this section, the corporation ~~must~~ shall deliver to the secretary of state for filing articles of amendment setting forth the terms determined under subsection (1~~a~~) of this section.

SECTION 29. That Section 30-29-603, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-603. ISSUED AND OUTSTANDING SHARES. (1~~a~~) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

(2~~b~~) The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection (3~~c~~) of this section and to section 30-29-640, Idaho Code.

(3~~c~~) At all times that shares of the corporation are outstanding, one (1) or more shares that together have unlimited full voting rights and one (1) or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

SECTION 30. That Section 30-29-604, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-604. FRACTIONAL SHARES. (1~~a~~) A corporation may issue fractions of a share or, in lieu of doing so, may:

(a~~1~~) ~~Issue fractions of a share or p~~Pay in money cash the value of fractions of a share;

~~(b) Arrange for disposition of fractional shares by the shareholders;~~

(e~~2~~) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share; or

(3) Arrange for disposition of fractional shares by the holders of such shares.

(2~~b~~) Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 30-29-625 (2~~b~~), Idaho Code.

(3~~c~~) The holder of a fractional share is entitled to exercise the rights of a shareholder, including the rights to vote, to receive dividends, and to ~~participate in the assets of the corporation~~ receive distributions upon liquidation dissolution. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

(4~~d~~) The board of directors may authorize the issuance of scrip subject to any condition ~~considered desirable~~, including that:

(a~~1~~) ~~That t~~The scrip will become void if not exchanged for full shares before a specified date; and

(b~~2~~) ~~That t~~The shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

SECTION 31. That Section 30-29-620, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-620. SUBSCRIPTION FOR SHARES BEFORE INCORPORATION. (1a) A subscription for shares entered into before incorporation ~~must be in writing~~ and is irrevocable for six (6) months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2b) The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3c) Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement, provided that such consideration meets the requirements of section 30-29-621(2b), Idaho Code.

(4d) If a subscriber defaults in payment of money cash or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than twenty (20) days after the corporation ~~sends~~ delivers a written demand for payment to the subscriber.

~~(5) A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 30-29-621, Idaho Code.~~

(6e) A subscription for stock of a corporation, whether made before or after the formation of a corporation, shall not be enforceable against the subscriber or the corporation, unless in writing and signed by the party to be bound.

SECTION 32. That Section 30-29-621, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-621. ISSUANCE OF SHARES. (1a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, or other securities of the corporation.

(3c) Before the corporation issues shares, the board of directors ~~must~~ shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid and nonassessable.

(4d) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

(5e) The corporation may place in escrow shares issued for a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the benefits are received, or the

note is paid. If the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

(6f) (a1) An issuance of shares or other securities convertible into or rights exercisable for shares, in a transaction or a series of integrated transactions, requires approval of the shareholders, at a meeting at which a quorum consisting of at least a majority, or such greater number as the articles of incorporation may prescribe, of the votes entitled to be cast on the matter exists, if:

(i) The shares, other securities, or rights are to be issued for consideration other than cash or cash equivalents; and

(ii) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than twenty percent (20%) of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

(b2) In this subsection:

(i) For purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares, or other securities convertible into or rights exercisable for shares, shall be the greater of:

(A) The voting power of the shares to be issued; or

(B) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(ii) A series of transactions is integrated only if consummation of one (1) transaction is made contingent on consummation of one (1) or more of the other transactions.

SECTION 33. That Section 30-29-622, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-622. LIABILITY OF SHAREHOLDERS. (1a) A purchaser from a corporation of its the corporation's own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued ~~as provided in section 30-29-621, Idaho Code, or specified in the subscription agreement as provided in section 30-29-620, Idaho Code.~~

(2b) ~~Unless otherwise provided in the articles of incorporation, a~~ shareholder of a corporation is not personally liable for ~~the acts or debts~~ any liabilities of the corporation, including liabilities arising from acts of the corporation, except to the extent provided in a provision of the articles of incorporation permitted by section 30-29-202(b)(2)(v), Idaho Code, and that he a shareholder may become personally liable by reason of his the shareholder's own acts or conduct.

SECTION 34. That Section 30-29-623, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-623. SHARE DIVIDENDS. (1a) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one (1) or more classes or series of shares. An issuance of shares under this subsection is a share dividend.

(2b) Shares of one (1) class or series may not be issued as a share dividend in respect of shares of another class or series unless:

(a1) The articles of incorporation so authorize;

(b2) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(e3) There are not outstanding shares of the class or series to be issued.

(c) The board of directors may fix the record date for determining shareholders entitled to a share dividend, which date may not be retroactive.

(3d) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, ~~it~~ the record date is the date the board of directors authorizes the share dividend.

SECTION 35. That Section 30-29-624, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-624. SHARE RIGHTS, OPTIONS, WARRANTS, AND AWARDS. (1a) A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine:

(a1) The terms and conditions upon which the rights, options, or warrants are issued; and

(b2) The terms, including the consideration for which the shares or other securities are to be issued. The authorization by the board of directors for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

~~(2b) The terms and conditions of such rights, options, or warrants, including those outstanding on July 1, 2004, may include, without limitation, restrictions or conditions that:~~

(a1) Preclude or limit the exercise, transfer or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons; or

(b2) Invalidate or void such rights, options, or warrants held by any such person or persons or any such transferee or transferees.

(c) The board of directors may authorize one (1) or more officers to:

(1) Designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares; and

(2) Determine, within an amount and subject to any other limitations established by the board of directors and, if applicable, the shareholders, the number of such rights, options, warrants, or other equity compensation awards and the terms of such rights, options, warrants, or awards to be received by the recipients, provided that an officer may not use such authority to designate himself or herself or any other persons as the board of directors may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

SECTION 36. That Section 30-29-625, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-625. FORM AND CONTENT OF CERTIFICATES. (1a) Shares may but need not be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical regardless of whether ~~or not~~ their shares are represented by certificates.

(2b) At a minimum each share certificate must state on its face:

(a1) The name of the issuing corporation and that it is organized under the law of this state;

(b2) The name of the person to whom issued; and

(e3) The number and class of shares and the designation of the series, if any, the certificate represents.

(3c) If the issuing corporation is authorized to issue different classes of shares or different series of shares within a class, the designations, relative rights, front or back of each certificate must summarize the rights, preferences, and limitations applicable to each class and the series; any variations in rights, preferences, and limitations determined for each among the holders of the same class or series; and the authority of the board of directors to determine variations for terms of future classes or series, must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(4d) Each share certificate:

~~(a) Must be signed, either manually or in facsimile, by two (2) officers designated in the bylaws or by the board of directors; and~~

~~(b) May bear the corporate seal or its facsimile.~~

(5e) If the person who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

SECTION 37. That Section 30-29-626, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-626. SHARES WITHOUT CERTIFICATES. (1a) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

(2b) Within a reasonable time after the issue issuance or transfer of shares without certificates, the corporation shall send deliver to the shareholder a written statement of the information required on certificates by section 30-29-625(2b) and (3c), Idaho Code, and, if applicable, section 30-29-627, Idaho Code.

SECTION 38. That Section 30-29-627, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-627. RESTRICTION ON TRANSFER OF SHARES AND OTHER SECURITIES. (1a) The articles of incorporation, the bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2b) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by section 30-29-626(2b), Idaho Code. Unless so noted or contained, a restriction is not enforceable against a person without knowledge of the restriction.

(3c) A restriction on the transfer or registration of transfer of shares is authorized:

(a1) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(b2) To preserve exemptions under federal or state securities law; or

(e3) For any other reasonable purpose.

(4d) A restriction on the transfer or registration of transfer of shares may:

(a~~1~~) Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares;

(b~~2~~) Obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restricted shares;

(e~~3~~) Require the corporation, the holders of any class or series of its shares, or another other persons to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(d~~4~~) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5e) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 39. That Section 30-29-628, Idaho Code, be, and the same is hereby repealed.

SECTION 40. That Section 30-29-630, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-630. SHAREHOLDERS' PREEMPTIVE RIGHTS. (1a) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

(2b) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights," or words of similar ~~import~~ effect, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a~~1~~) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(b~~2~~) A shareholder may waive his preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(e~~3~~) There is no preemptive right with respect to:

(i) Shares issued as compensation to directors, officers, agents or employees of the corporation, its subsidiaries or affiliates;

(ii) Shares issued to satisfy conversion ~~rights~~ or option rights created to provide compensation to directors, officers, agents or employees of the corporation, its subsidiaries or affiliates;

(iii) Shares authorized in the articles of incorporation that are issued within six (6) months from the effective date of incorporation; or

(iv) Shares sold otherwise than for ~~money~~ cash.

(d~~4~~) Holders of shares of any class or series without ~~general~~ voting ~~rights~~ power but with preferential rights to distributions ~~or~~ assets have no preemptive rights with respect to shares of any class or series.

(e~~5~~) Holders of shares of any class or series with ~~general~~ voting ~~rights~~ power but without preferential rights to distributions ~~or~~ assets have no preemptive rights with respect to shares of any class or series with preferential rights to distributions ~~or~~ assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire the shares without preferential rights.

(f~~6~~) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one (1) year after being offered to shareholders at a consideration set by the board of

directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one (1) year is subject to the shareholders' preemptive rights.

(3c) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 41. That Section 30-29-631, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-631. CORPORATION'S ACQUISITION OF ITS OWN SHARES. (1a) A corporation may acquire its own shares. Unless a resolution of the board of directors or the corporation's articles of incorporation provide otherwise, shares so acquired constitute authorized but unissued shares.

(2b) If the articles of incorporation prohibit the reissue of the acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation pursuant to section 30-29-1005 (6f), Idaho Code.

(3c) A corporation has authority to use, hold, acquire, cancel and dispose of treasury shares.

(4d) Unless the board of directors adopts an amendment to the corporation's articles of incorporation to reduce the number of authorized shares, treasury shares of the corporation that are canceled shall be treated as authorized but unissued shares.

SECTION 42. That Section 30-29-640, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-640. DISTRIBUTIONS TO SHAREHOLDERS. (1a) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3c) of this section.

(2b) ~~If t~~The board of directors does not may fix the record date for determining shareholders entitled to a distribution, which date may not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, it the record date is the date the board of directors authorizes the distribution.

(3c) No distribution may be made if, after giving it effect:

(a1) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b2) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4d) The board of directors may base a determination that a distribution is not prohibited under subsection (3c) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(5e) Except as provided in subsection (7g) of this section, the effect of a distribution under subsection (3c) of this section is measured:

(a1) In the case of distribution by purchase, redemption or other acquisition of the corporation's shares, as of the earlier of:

(i) The date money cash or other property is transferred or debt to a shareholder is incurred by the corporation; or

- (ii) The date the shareholder ceases to be a shareholder with respect to the acquired shares;
- (b2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
- (e3) In all other cases, as of:
 - (i) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or
 - (ii) The date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.
- (6f) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.
- (7g) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection (3c) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the such indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.
- (h) This section shall not apply to distributions in liquidation under part 14 of this chapter.

SECTION 43. That Section 30-29-701, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-701. ANNUAL MEETING. (1a) Unless directors are elected by written consent in lieu of an annual meeting as permitted by section 30-29-704, Idaho Code, aA corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws at which directors shall be elected.

(2b) Annual shareholders¹ meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is so stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(3c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

SECTION 44. That Section 30-29-702, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-702. SPECIAL MEETING. (1a) A corporation shall hold a special meeting of shareholders:

(a1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b2) ~~If the holders of~~ shareholders holding at least twenty percent (20%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the corporation one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding thirty-three and one-third percent (33 1/3%) of all the votes entitled to be cast on any issue proposed to be considered. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation ~~prior to~~ before the receipt by the corpora-

tion of demands sufficient in number to require the holding of a special meeting.

(2b) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho Code, the record date for determining shareholders entitled to demand a special meeting is shall be the first date the first on which a signed shareholder signs the demand is delivered to the corporation. No written demand for a special meeting shall be effective unless, within sixty (60) days of the earliest date on which such a demand delivered to the corporation as required by this section was signed, written demands signed by shareholders holding at least the percentage of votes specified in or fixed in accordance with subsection (a) (2) of this section have been delivered to the corporation.

(3c) Special shareholders¹ meetings of shareholders may be held in or out of this state at the place stated in or fixed in accordance with the by-laws. If no place is so stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(4d) Only business within the purpose or purposes described in the meeting notice required by section 30-29-705(3c), Idaho Code, may be conducted at a special shareholders¹ meeting of shareholders.

SECTION 45. That Section 30-29-703, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-703. COURT-ORDERED MEETING. (1a) The Idaho district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, may summarily order a meeting to be held:

(a1) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu of an annual meeting did not become effective within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or

(b2) On application of a one (1) or more shareholders who signed a demand for a special meeting valid under section 30-29-702, Idaho Code, if:

(i) Notice of the special meeting was not given within thirty (30) days after the date first day on which the requisite number of such demands was have been delivered to the corporation's secretary corporation; or

(ii) The special meeting was not held in accordance with the notice.

(2b) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes shares represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(c) For purposes of subsection (a) (1) of this section, "shareholder" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

SECTION 46. That Section 30-29-704, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-704. ACTION WITHOUT MEETING. (1a) Action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on

the action. The action must be evidenced by one (1) or more written consents bearing the date of signature and describing the action taken, signed by all the shareholders entitled to vote on the action, and delivered to the corporation for ~~inclusion in the minutes or filing by the corporation with the minutes or corporate records.~~

(b) The articles of incorporation may provide that any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted; provided, however, that if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to section 30-29-728, Idaho Code, directors may not be elected by less than unanimous written consent. A written consent must bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

(2c) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho Code, and if prior action by the board of directors is not required respecting the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting is the date shall be the first shareholder signs the consent under subsection (1) of this section date on which a signed written consent is delivered to the corporation. If not otherwise fixed under section 30-29-707, Idaho Code, and if prior action by the board of directors is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board of directors taking such prior action is adopted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest date appearing on which a consent delivered to the corporation in the manner as required by this section was signed, written consents signed by all sufficient shareholders entitled to vote on take the action are received by have been delivered to the corporation. A written consent may be revoked by a writing to that effect received by delivered to the corporation prior to the receipt by the corporation of before unrevoked written consents sufficient in number to take the corporate action have been delivered to the corporation.

(3d) A consent signed under pursuant to the provisions of this section has the effect of a meeting vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action have been delivered to the corporation.

(4e) If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by unanimous written consent of the voting shareholders, the corporation must shall give its nonvoting shareholders written notice of the proposed action at least not more than ten (10) days before after written consents sufficient to take the action is taken have been delivered to the corporation or such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section. The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f) If action is taken by less than unanimous written consent of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than ten (10) days after

written consents sufficient to take the action have been delivered to the corporation or such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section. The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

(g) The notice requirements in subsections (e) and (f) of this section shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

SECTION 47. That Section 30-29-705, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-705. NOTICE OF MEETING. (1a) A corporation shall notify shareholders of the date, time and place of each annual and special shareholders' meeting no fewer than ten (10) nor more than sixty (60) days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to section 30-29-709, Idaho Code, for holders of any class or series of shares, the notice to the holders of such class or series of shares must describe the means of remote communication to be used. The notice must include the record date for determining the shareholders entitled to vote at the meeting if such date is different from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

(2b) Unless this chapter or the articles of incorporation require otherwise, the notice of an annual meeting of shareholders need not include a description of the purpose or purposes for which the meeting is called.

(3c) Notice of a special meeting of shareholders must include a description of the purpose or purposes for which the meeting is called.

(4d) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho Code, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

(5e) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 30-29-707, Idaho Code, however, notice of the adjourned meeting must shall be given under this section to persons who are shareholders entitled to vote at such adjourned meeting as of the new record date fixed for notice of such adjourned meeting.

SECTION 48. That Section 30-29-706, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-706. WAIVER OF NOTICE. (1a) A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing by the corporation with the minutes or corporate records.

(2b) A shareholder's attendance at a meeting:

(a1) Waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(b2) Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

SECTION 49. That Section 30-29-707, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-707. RECORD DATE FOR MEETING. (1a) The bylaws may fix or provide the manner of fixing the record date or dates for one (1) or more voting groups ~~in order~~ to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors ~~of the corporation~~ may fix a ~~future date~~ as the record date.

(2b) A record date fixed under this section may not be more than seventy (70) days before the meeting or action requiring a determination of shareholders and may not be retroactive.

(3c) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date or dates, which it ~~must~~ shall do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(4d) If a court orders a meeting adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, it may provide that the original record date or dates continues in effect or it may fix a new record date or dates.

(e) The record date or dates for a shareholders' meeting fixed by or in the manner provided in the bylaws or by the board of directors shall be the record date or dates for determining shareholders entitled both to notice of and to vote at the shareholders' meeting, unless in the case of a record date or dates fixed by the board of directors and to the extent not prohibited by the bylaws, the board, at the time it fixes the record date for shareholders entitled to notice of the meeting, fixes a later record date on or before the date of the meeting to determine the shareholders entitled to vote at the meeting.

SECTION 50. That Section 30-29-708, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-708. CONDUCT OF ~~THE~~ MEETING. (1a) At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board of directors.

(2b) The chair, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

(3c) ~~The~~ Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

(4d) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes nor any revocations or changes ~~thereto~~ to such ballots, proxies, or votes may be accepted.

SECTION 51. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-709, Idaho Code, and to read as follows:

30-29-709. REMOTE PARTICIPATION IN SHAREHOLDERS' MEETINGS. (a) Shareholders of any class or series of shares may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation as a shareholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection (b) of this section.

(b) Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures:

- (1) To verify that each person participating remotely as a shareholder is a shareholder; and
- (2) To provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrent with such proceedings.

SECTION 52. That Section 30-29-720, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-720. SHAREHOLDERS' LIST FOR MEETING. (~~1a~~) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under section 30-29-707(e) to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. The A list must be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

(~~2b~~) The shareholders' list must for notice shall be available for inspection by any shareholder, at least ten (10) beginning two (2) business days before after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. A shareholder, his or the shareholder's agent or attorney is entitled on written demand to inspect and, subject to the requirements of section 30-29-1602(3c), Idaho Code, to copy the a list, during regular business hours and at his the shareholder's expense, during the period it is available for inspection.

(~~3c~~) The corporation shall make the shareholders' list of shareholders entitled to vote available at the meeting, and any shareholder, his or the shareholder's agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(~~4d~~) If the corporation refuses to allow a shareholder, his or the shareholder's agent or attorney to inspect the a shareholders' list before or at the meeting, or copy the a list as permitted by subsection (2b) of this section, the Idaho district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, on application of the shareholder, may summarily order the inspection or copying at

the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(5e) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

SECTION 53. That Section 30-29-721, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-721. VOTING ENTITLEMENT OF SHARES. (1a) Except as provided in subsections (2b) and (4d) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

(2b) ~~A corporation is not entitled to vote treasury shares. Absent special circumstances, the sShares of a corporation are not entitled to vote if they are owned, by or otherwise belong to the corporation directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, through an entity of which a majority of the shares entitled to vote for directors of the second corporation voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.~~

~~(3) Subsection (2) of this section does not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.~~

(c) Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

(4d) Redeemable shares are not entitled to vote after delivery of written notice of redemption is mailed to the holders effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

(e) For purposes of this section, "voting power" means the current power to vote in the election of directors of a corporation or to elect, select, or appoint governors of another entity.

(f) A corporation is not entitled to vote treasury shares.

SECTION 54. That Section 30-29-722, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-722. PROXIES. (1a) A shareholder may vote his the shareholder's shares in person or by proxy.

(2b) A shareholder or his the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which one the recipient can reasonably verify determine the date of the transmission and that the shareholder, transmission was authorized by the shareholder's sender or the sender's agent, or the shareholder's attorney-in-fact authorized the transmission.

(3c) An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to tabulate count votes. An appointment is valid for eleven (11) months unless a longer period is expressly the term provided in the appointment form and if

no term is provided, is valid for eleven (11) months unless the appointment is irrevocable under subsection (d) of this section.

(4d) An appointment of a proxy is revocable unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

- (a1) A pledgee;
- (b2) A person who purchased or agreed to purchase the shares;
- (e3) A creditor of the corporation who extended it credit under terms requiring the appointment;
- (d4) An employee of the corporation whose employment contract requires the appointment; or
- (e5) A party to a voting agreement created under section 30-29-731, Idaho Code.

(5e) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspector of election or the other officer or agent of the corporation authorized to tabulate votes before the proxy exercises his authority under the appointment.

(6f) An appointment made irrevocable under subsection (4d) of this section is revoked when the interest with which it is coupled is extinguished.

(7g) Unless it otherwise provides, an appointment made irrevocable under subsection (d) of this section continues in effect after a transfer of the shares and a transferee takes subject to the appointment, except that a transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he the transferee did not know of its existence when he acquired acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8h) Subject to section 30-29-724, Idaho Code, and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

SECTION 55. That Section 30-29-723, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-723. SHARES HELD BY INTERMEDIARIES AND NOMINEES. (1a) A corporation's board of directors may establish a procedure by under which the beneficial owner of a person on whose behalf shares that are registered in the name of an intermediary or nominee is recognized may elect to be treated by the corporation as the record shareholder. by filing with the corporation a beneficial ownership certificate. The terms, conditions, and limitations of this treatment shall be specified in the procedure. To tThe extent of this recognition may be determined in the such person is treated under such procedure as having rights or privileges that the record shareholder otherwise would have, the record shareholder shall not have those rights or privileges.

(2b) The procedure ~~may set forth~~ must specify:

- (a1) The types of intermediaries or nominees to which it applies;
- (b2) The rights or privileges that the corporation recognizes in a person with respect to whom a beneficial owner ownership certificate is filed;
- (e3) The manner in which the procedure is selected that must include that the beneficial ownership certificate be signed or assented to by the nominee or on behalf of the record shareholder and the person on whose behalf the shares are held;
- (d4) The information that must be provided when the procedure is selected;

- (e5) The period for which selection of the procedure is effective; and
- (f6) Requirements for notice to the corporation with respect to the arrangement; and
- (7) The form and contents of the beneficial ownership certificate.

(c) The procedure may specify any other aspects of the rights and duties created by the filing of a beneficial ownership certificate.

SECTION 56. That Section 30-29-724, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-724. CORPORATION'S ACCEPTANCE OF VOTES AND OTHER INSTRUMENTS. (1a) If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder.

(2b) If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder if:

(a1) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b2) The name signed purports to be that of an administrator, executor, guardian or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment;

(e3) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment;

(d4) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment; or

(e5) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name ~~or~~ of at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3c) The corporation is entitled to reject a vote, ballot, consent, waiver, shareholder demand, or proxy appointment if the ~~inspector of election or the officer or agent of the corporation~~ person authorized to ~~tabulate votes accept or reject such instrument~~, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(4d) ~~Neither the corporation and its officer or agent who~~ any person authorized by it, nor an inspector of election appointed under section 30-29-729, Idaho Code, that accepts or rejects a vote, ballot, consent, waiver, shareholder demand, or proxy appointment in good faith and in accordance with the standards of this section or section 30-29-722(2b), Idaho Code, are not is liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5e) Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, shareholder demand, or proxy appointment under this section ~~or section 30-29-722(2), Idaho Code,~~ is valid unless a court of competent jurisdiction determines otherwise.

(f) If an inspector of election has been appointed under section 30-29-729, Idaho Code, the inspector of election also has the authority to request information and make determinations under subsections (a), (b), and (c) of this section. Any determination made by the inspector of election under those subsections is controlling.

SECTION 57. That Section 30-29-725, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-725. QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS. (1a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation ~~or this chapter~~ provide otherwise, shares representing a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter. If the provisions of this chapter require a particular quorum for a specified action, the articles of incorporation may not provide for a lower quorum.

(2b) Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set fixed for that adjourned meeting.

(3c) If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation ~~or this chapter~~ requires a greater number of affirmative votes.

(4d) An amendment of the articles of incorporation adding, changing or deleting a quorum or voting requirement for a voting group greater than specified in subsection (1a) or (3c) of this section is governed by section 30-29-727, Idaho Code.

(5e) The election of directors is governed by section 30-29-728, Idaho Code.

(f) If a provision of this chapter provides for voting of classes or series as separate voting groups, the rules provided in section 30-29-1004(c), Idaho Code, for amendments of the articles of incorporation shall apply to that provision.

SECTION 58. That Section 30-29-726, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-726. ACTION BY SINGLE AND MULTIPLE VOTING GROUPS. (1a) If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in section 30-29-725, Idaho Code.

(2b) If the articles of incorporation or this chapter provide for voting by two (2) or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in section 30-29-725, Idaho Code. Action may be taken by one (1) different voting groups on a matter even though no action is taken by another voting group entitled to vote on the matter at different times.

SECTION 59. That Section 30-29-727, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-727. GREATER MODIFYING QUORUM OR VOTING REQUIREMENTS. ~~(1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders, or voting groups of shareholders, than is provided for by this chapter.~~

~~(2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement must shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.~~

SECTION 60. That Section 30-29-728, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-728. VOTING FOR DIRECTORS -- CUMULATIVE VOTING. (1a) Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(2b) Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

(3c) A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders" are entitled to cumulate their votes for directors," or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two (2) or more candidates.

(d) Shares otherwise entitled to vote cumulatively may not be voted cumulatively at a particular meeting unless:

(1) The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(2) A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than forty-eight (48) hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one (1) shareholder gives this notice, all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

SECTION 61. That Section 30-29-729, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-729. INSPECTORS OF ELECTION. (1a) A corporation having any shares listed on a national that has a class of equity securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association registered pursuant to section 12 of the securities exchange act of 1934 shall, and any other corporation may, appoint one (1) or more inspectors to act at a meeting of shareholders and make a written report of the inspectors' determinations in connection with determining voting results. Each inspector shall take and sign an oath verify in writing that the inspector will faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability. An inspector may be an officer or employee of the corporation. The inspectors may appoint or retain other persons to assist the inspectors in the performance of the duties of inspector under subsection (b) of this section, and may rely on information provided by such

persons and other persons, including those appointed to tabulate votes, unless the inspectors believe reliance is unwarranted.

(2b) The inspectors shall:

(a1) Ascertain the number of shares outstanding and the voting power of each;

(b2) Determine the shares represented at a meeting;

(e3) Determine the validity of ~~proxies~~ proxy appointments and ballots;

(d4) Count all the votes; and

(e5) Determine ~~Make~~ a written report of the results.

~~(3) An inspector may be an officer or employee of the corporation.~~

(c) In performing their duties, the inspectors may examine:

(1) The proxy appointment forms and any other information provided in accordance with section 30-29-722 (b), Idaho Code;

(2) Any envelope or related writing submitted with those appointment forms;

(3) Any ballots;

(4) Any evidence or other information specified in section 30-29-724, Idaho Code; and

(5) The relevant books and records of the corporation relating to its shareholders and their entitlement to vote, including any securities position list provided by a depository clearing agency.

(d) The inspectors may also consider other information that they believe is relevant and reliable for the purpose of performing any of the duties assigned to them pursuant to subsection (b) of this section including for the purpose of evaluating inconsistent, incomplete, or erroneous information and reconciling information submitted on behalf of banks, brokers, their nominees, or similar persons that indicates more votes being cast than a proxy authorized by the record shareholder is entitled to cast. If the inspectors consider other information allowed by this subsection, they shall in their report under subsection (b) of this section specify the information considered by them, including the purpose or purposes for which the information was considered, the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained, and the basis for the inspectors' belief that such information is relevant and reliable.

(e) Determinations of law by the inspectors of election are subject to de novo review by a court in a proceeding under section 30-29-749, Idaho Code, or other judicial proceeding.

SECTION 62. That Section 30-29-730, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-730. VOTING TRUSTS. (1a) One (1) or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all ~~owners of voting trust~~ beneficial interests in the trust owners, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's at its principal office.

(2b) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name. A voting trust is valid for not more than ten (10) years after its effective date unless extended under subsection (3) of this section.

~~(3) All or some of the parties to a voting trust may extend it for additional terms of not more than ten (10) years each by signing written consent to the extension. An extension is valid for ten (10) years from the date the first shareholder signs the extension agreement. The voting trustee must~~

~~deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.~~

(c) Limits, if any, on the duration of a voting trust shall be as set forth in the voting trust. A voting trust that became effective when this chapter provided a ten (10) year limit on its duration remains governed by the provisions of this section concerning duration then in effect, unless the voting trust is amended to provide otherwise by unanimous agreement of the parties to the voting trust.

SECTION 63. That Section 30-29-731, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-731. VOTING AGREEMENTS. (1a) Two (2) or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of section 30-29-730, Idaho Code.

(2b) A voting agreement created under this section is specifically enforceable.

SECTION 64. That Section 30-29-732, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-732. SHAREHOLDER AGREEMENTS. (1a) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one (1) or more other provisions of this chapter in that it:

(a1) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b2) Governs the authorization or making of distributions, regardless of whether or not they are in proportion to ownership of shares, subject to the limitations in section 30-29-640, Idaho Code;

(e3) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d4) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(e5) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer or employee of the corporation or among any of them;

(f6) Transfers to one (1) or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(g7) Requires dissolution of the corporation at the request of one (1) or more of the shareholders or upon the occurrence of a specified event or contingency; or

(h8) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors and the corporation, or among any of them, and is not contrary to public policy.

(2b) An agreement authorized by this section shall be:

(a1) As sSet forth:

(i) In the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

(ii) In a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation; and

(b~~2~~) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise; ~~and~~

~~(c) Valid for ten (10) years, unless the agreement provides otherwise.~~

(3c) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by section 30-29-626(2b), Idaho Code. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase.

A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or ~~prior to~~ before the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection ~~must~~ shall be commenced within the earlier of ninety (90) days after discovery of the existence of the agreement or two (2) years after the time of purchase of the shares.

~~(4d) An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.~~

(5e) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(6f) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7g) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

(h) Limits, if any, on the duration of an agreement authorized by this section must be set forth in the agreement. An agreement that became effective when this chapter provided for a limit of ten (10) years on duration of shareholder agreements, unless the agreement provided otherwise, remains governed by the provisions of this section concerning duration then in effect.

SECTION 65. That Section 30-29-740, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-740. PART DEFINITIONS. As used in sections 30-29-741 through 30-29-747, Idaho Code:

(1) "Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in section 30-29-747, Idaho Code, in the right of a foreign corporation.

(2) "Shareholder" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

SECTION 66. That Section 30-29-741, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-741. STANDING. A shareholder may not commence or maintain a derivative proceeding unless the shareholder:

(1a) Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one (1) who was a shareholder at that time; and

(2b) Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

SECTION 67. That Section 30-29-742, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-742. DEMAND. No shareholder may commence a derivative proceeding until:

(1a) A written demand has been made upon the corporation to take suitable action; and

(2b) Ninety (90) days have expired from the date delivery of the demand was made unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety (90) day period.

SECTION 68. That Section 30-29-744, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-744. DISMISSAL. (1a) A derivative proceeding shall be dismissed by the court on motion by the corporation if one (1) of the groups specified in subsection (2b) or (6e) of this section has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(2b) Unless a panel is appointed pursuant to subsection (6e) of this section, the determination in subsection (1a) of this section shall be made by:

(a1) A majority vote of independent qualified directors present at a meeting of the board of directors if the independent qualified directors constitute a quorum; or

(b2) A majority vote of a committee consisting of two (2) or more independent qualified directors appointed by majority vote of independent qualified directors present at a meeting of the board of directors, regardless of whether or not such independent qualified directors constituted a quorum.

~~(3) None of the following shall by itself cause a director to be considered not independent for purposes of this section:~~

~~(a) The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded;~~

~~(b) The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded; or~~

~~(c) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.~~

(4c) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing either:

(a1) That a majority of the board of directors did not consist of independent directors at the time the determination was made; or

(b2) That the requirements of subsection (1a) of this section have not been met.

(5d) If a majority of the board of directors ~~does not consist~~ consisted of independent qualified directors at the time the determination ~~is~~ was made, the corporation plaintiff shall have the burden of proving that the requirements of subsection (1a) of this section have been met; if not, the corporation shall have the burden of proving that the requirements of subsection (a) of this section have been met. ~~If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection (1) of this section have not been met.~~

(6e) Upon motion by the corporation, ~~t~~The court may appoint a panel of one (1) or more independent ~~persons upon motion by the corporation~~ individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection (1a) of this section have not been met.

SECTION 69. That Section 30-29-745, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-745. DISCONTINUANCE OR SETTLEMENT. A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class or series of shareholders, the court shall direct that notice be given to the shareholders affected.

SECTION 70. That Section 30-29-746, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-746. PAYMENT OF EXPENSES. On termination of the derivative proceeding the court may:

(1a) Order the corporation to pay the plaintiff's reasonable expenses, ~~including counsel fees,~~ incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2b) Order the plaintiff to pay any defendant's reasonable expenses, ~~including counsel fees,~~ incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3c) Order a party to pay an opposing party's reasonable expenses, ~~including counsel fees,~~ incurred because of the filing of a pleading, motion or other paper, if it finds that the pleading, motion or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law and or was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

SECTION 71. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-748, Idaho Code, and to read as follows:

30-29-748. SHAREHOLDER ACTION TO APPOINT A CUSTODIAN OR RECEIVER. (a) The Idaho district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, may appoint one (1) or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(2) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(b) The court:

(1) May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

(2) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

(3) Has jurisdiction over the corporation and all of its property, wherever located.

(c) The court may appoint an individual, or domestic or foreign corporation registered to do business in this state, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(d) The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers:

(1) A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation; and

(2) A receiver may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and may sue and defend in the receiver's own name as receiver in all courts of this state.

(e) The court during a custodianship may redesignate the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

(f) The court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

(g) As used in this section, "shareholder" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

SECTION 72. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-749, Idaho Code, and to read as follows:

30-29-749. JUDICIAL DETERMINATION OF CORPORATE OFFICES AND REVIEW OF ELECTIONS AND SHAREHOLDER VOTES. (a) Upon application of or in a proceeding commenced by a person specified in subsection (b) of this section, the Idaho

district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, may determine:

- (1) The result or validity of the election, appointment, removal, or resignation of a director or officer of the corporation;
- (2) The right of an individual to hold the office of director or officer of the corporation;
- (3) The result or validity of any vote by the shareholders of the corporation;
- (4) The right of a director to membership on a committee of the board of directors; and
- (5) The right of a person to nominate, or an individual to be nominated, as a candidate for election or appointment as a director of the corporation and any right under a bylaw adopted pursuant to section 30-29-206(c), Idaho Code, or any comparable right under any provision of the articles of incorporation, contract, or applicable law.

(b) An application or proceeding pursuant to subsection (a) of this section may be filed or commenced by any of the following persons:

- (1) The corporation;
- (2) Any record shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation;
- (3) A director of the corporation, an individual claiming the office of director, or a director whose membership on a committee of the board of directors is contested, in each case who is seeking a determination of his or her right to such office or membership;
- (4) An officer of the corporation or an individual claiming to be an officer of the corporation, in each case who is seeking a determination of his or her right to such office; and
- (5) A person claiming a right covered by subsection (a) (5) of this section and who is seeking a determination of such right.

(c) In connection with any application or proceeding under subsection (a) of this section, the following shall be named as defendants, unless such person made the application or commenced the proceeding:

- (1) The corporation;
- (2) Any individual whose right to office or membership on a committee of the board of directors is contested;
- (3) Any individual claiming the office or membership at issue; and
- (4) Any person claiming a right covered by subsection (a) (5) that is at issue.

(d) In connection with any application or proceeding under subsection (a) of this section, service of process may be made upon each of the persons specified in subsection (c) of this section either by:

- (1) Service of process on the corporation addressed to such person in any manner provided by statute of this state or by rule of the applicable court for service on the corporation; or
- (2) Service of process on the person in any manner provided by statute of this state or by rule of the applicable court.

(e) When service of process is made upon a person other than the corporation by service upon the corporation pursuant to subsection (d) (1) of this section, the plaintiff and the corporation or its registered agent shall promptly provide written notice of such service, together with copies of all process and the application or complaint, to the person at the person's last known residence or business address, or as permitted by statute of this state or by rule of the applicable court.

(f) In connection with any application or proceeding under subsection (a) of this section, the court shall dispose of the application or proceeding on an expedited basis and also may:

- (1) Order such additional or further notice as the court deems proper under the circumstances;

(2) Order that additional persons be joined as parties to the proceeding if the court determines that such joinder is necessary for a just adjudication of matters before the court;

(3) Order an election or meeting be held in accordance with the provisions of section 30-29-703(b) or otherwise;

(4) Appoint a master to conduct an election or meeting;

(5) Enter temporary, preliminary, or permanent injunctive relief;

(6) Resolve, solely for the purpose of this proceeding, any legal or factual issues necessary for the resolution of any of the matters specified in subsection (a) of this section, including the right and power of persons claiming to own shares to vote at any meeting of the shareholders; and

(7) Order such other relief as the court determines is equitable, just, and proper.

(g) It is not necessary to make shareholders a party to a proceeding or application pursuant to this section unless the shareholder is a required defendant under subsection (c) (4) of this section, relief is sought against the shareholder individually, or the court orders joinder pursuant to subsection (f) (2) of this section.

(h) Nothing in this section limits, restricts, or abolishes the subject matter jurisdiction or powers of the court as existed before the enactment of this section, and an application or proceeding pursuant to this section is not the exclusive remedy or proceeding available with respect to the matters specified in subsection (a) of this section.

SECTION 73. That Section 30-29-801, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-801. REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS. (1a) Except as may be provided in an agreement authorized under section 30-29-732, Idaho Code, each corporation must shall have a board of directors.

(2b) Except as may be provided in an agreement authorized under section 30-29-732, Idaho Code, and subject to any limitation in the articles of incorporation permitted by section 30-29-202(b), Idaho Code, all corporate powers shall be exercised by or under the authority of the board of directors, and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight of, its the board of directors, subject to any limitation set forth in the articles of incorporation or in an agreement authorized under section 30-29-732, Idaho Code.

SECTION 74. That Section 30-29-802, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-802. QUALIFICATIONS OF DIRECTORS. (a) The articles of incorporation or bylaws may prescribe qualifications for directors or for nominees for directors. Qualifications must be reasonable as applied to the corporation and be lawful.

(b) A requirement that is based on a past, prospective, or current action, or expression of opinion, by a nominee or director that could limit the ability of a nominee or director to discharge his or her duties as a director is not a permissible qualification under this section. Notwithstanding the foregoing, qualifications may include not being or having been subject to specified criminal, civil, or regulatory sanctions or not having been removed as a director by judicial action or for cause.

(c) A director need not be a resident of this state or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

(d) A qualification for nomination for director prescribed before a person's nomination shall apply to such person at the time of nomination. A qualification for nomination for director prescribed after a person's nomination shall not apply to such person with respect to such nomination.

(e) A qualification for director prescribed before a director has been elected or appointed may apply only at the time an individual becomes a director or may apply during a director's term. A qualification prescribed after a director has been elected or appointed shall not apply to that director before the end of that director's term.

SECTION 75. That Section 30-29-803, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-803. NUMBER AND ELECTION OF DIRECTORS. (1a) A board of directors must shall consist of one (1) or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2b) The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

(3c) Directors are elected at the first annual shareholders' meeting and at each annual shareholders' meeting thereafter unless elected by written consent in lieu of an annual meeting as permitted by section 30-29-704, Idaho Code, or unless their terms are staggered under section 30-29-806, Idaho Code.

SECTION 76. That Section 30-29-804, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-804. ELECTION OF DIRECTORS BY CERTAIN CLASSES OR SERIES OF SHAREHOLDERS SHARES. If the articles of incorporation or action by the board of directors pursuant to section 30-29-602, Idaho Code, authorizes dividing the shares into classes or series, the articles of incorporation may also authorize the election of all or a specified number of directors by the holders of one (1) or more authorized classes or series of shares. A class or series, or multiple classes or series, of shares entitled to elect one (1) or more directors is a separate voting group for purposes of the election of directors.

SECTION 77. That Section 30-29-805, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-805. TERMS OF DIRECTORS GENERALLY. (1a) The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

(2b) The terms of all other directors expire at the next, or if their terms are staggered in accordance with section 30-29-806, Idaho Code, at the applicable second or third annual shareholders' meeting following their election unless their terms are staggered under except to the extent provided in section 30-29-8061022, Idaho Code, if a bylaw electing to be governed by that section is in effect or if a shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election.

(3c) A decrease in the number of directors does not shorten an incumbent director's term.

(4d) The term of aA director elected to fill a vacancy shall be expires at the next shareholders' meeting at which directors are elected for the un-expired term of his predecessor in office.

(5e) Except to the extent otherwise provided in the articles of incorporation or under section 30-29-1022, Idaho Code, if a bylaw electing to be governed by that section is in effect, despite the expiration of a director's term, the director continues to serve until his the director's successor is elected and qualifies or until there is a decrease in the number of directors.

SECTION 78. That Section 30-29-806, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-806. STAGGERED TERMS FOR DIRECTORS. The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into two (2) or three (3) groups, with each group containing one-half (1/2) or one-third (1/3) of the total, as near as may be practicable. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen elected for a term of two (2) years or three (3) years, as the case may be, to succeed those whose terms expire.

SECTION 79. That Section 30-29-807, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-807. RESIGNATION OF DIRECTORS. (1a) A director may resign at any time by delivering a written notice of resignation to the board of directors, its chairman chair, or the corporation secretary.

(2b) A resignation is effective when the notice is delivered as provided in section 30-29-141(i), Idaho Code, unless the notice specifies resignation provides for a delayed effectiveness, including effectiveness determined upon a future effective date event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

SECTION 80. That Section 30-29-808, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-808. REMOVAL OF DIRECTORS BY SHAREHOLDERS. (1a) The shareholders may remove one (1) or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him that director.

(3c) A director may be removed if the number of votes cast to remove exceeds the number of votes cast not to remove the director, except to the extent the articles of incorporation or bylaws require a greater number; provided that if cumulative voting is authorized, a director may not be removed if, in the case of a meeting, the number of votes sufficient to elect him the director under cumulative voting is voted against his removal. If and, if action is taken by less than unanimous written consent, voting shareholders entitled to the number of votes sufficient to elect the director under cumulative voting is do not authorized, a director may be removed only if the number of votes cast to remove him exceeds the number of votes cast not to remove him consent to the removal.

(4d) A director may be removed by the shareholders only at a meeting called for the purpose of removing him the director and the meeting notice must state that ~~the purpose, or one (1) of the purposes, of the meeting is removal of the director~~ is a purpose of the meeting.

SECTION 81. That Section 30-29-809, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-809. REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING. (1a) The Idaho district court of the county where a corporation's principal office is located, or, if none in this state, Ada county, may remove a director of ~~the corporation from office or may order other relief, including barring the director from reelection for a period prescribed by the court,~~ in a proceeding commenced by or in the right of the corporation if the court finds that:

(a1) The director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(b2) Considering the director's course of conduct and the inadequacy of other available remedies, removal, or other such relief would be in the best interest of the corporation.

(2b) A shareholder proceeding on behalf of the corporation under subsection (1a) of this section shall comply with all of the requirements of sections 30-29-741 through 30-29-747, Idaho Code, except section 30-29-741 (1a), Idaho Code.

~~(3) The court, in addition to removing the director, may bar the director from reelection for a period prescribed by the court.~~

~~(4) Nothing in this section limits the equitable powers of the court to order other relief.~~

SECTION 82. That Section 30-29-810, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-810. VACANCY ON BOARD OF DIRECTORS. (1a) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(a1) The shareholders may fill the vacancy;

(b2) The board of directors may fill the vacancy; or

(e3) If the directors remaining in office constitute are fewer than a quorum ~~of the board~~, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders, and only the remaining directors elected by that voting group, even if fewer than a quorum, are entitled to fill the vacancy if it is filled by the directors.

(3c) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under section 30-29-807 (2b), Idaho Code, or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

SECTION 83. That Section 30-29-820, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-820. MEETINGS. (1a) The board of directors may hold regular or special meetings in or out of this state.

(2b) Unless restricted by the articles of incorporation or bylaws ~~provide otherwise~~, any or all directors may participate in a ~~regular or spe-~~

cial ~~any meeting by, or conduct of~~ the meeting board of directors through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

SECTION 84. That Section 30-29-821, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-821. ACTION WITHOUT MEETING. (1a) Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this act chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

(2b) Action taken under this section is the act of the board of directors when one (1) or more consents signed by all the directors are delivered to the corporation. The consent may specify a later time as the time at which the action taken ~~thereunder~~ is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation ~~prior to~~ before delivery to the corporation of unrevoked written consents signed by all the directors.

(3c) A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

SECTION 85. That Section 30-29-822, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-822. NOTICE OF MEETING. (1a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place or purpose of the meeting.

(2b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors ~~must~~ shall be preceded by at least two (2) days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

SECTION 86. That Section 30-29-823, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-823. WAIVER OF NOTICE. (1a) A director may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice. Except as provided by subsection (2b) of this section, the waiver must be filed in writing, signed by the director entitled to the notice, and filed delivered to the corporation for filing by the corporation with the minutes or corporate records.

(2b) A director's attendance at or participation in a meeting waives any required notice to ~~him~~ the director of the meeting unless the director at the beginning of the meeting, or promptly upon ~~his~~ arrival, objects to holding the meeting or transacting business at the meeting and does not ~~thereafter~~ after objecting vote for or assent to action taken at the meeting.

SECTION 87. That Section 30-29-824, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-824. QUORUM AND VOTING. (1a) Unless the articles of incorporation or bylaws require provide for a greater or fewer number or unless otherwise specifically expressly provided in this chapter, a quorum of a board of directors consists of:

~~(a) A a majority of the fixed number of directors if the corporation has a specified in or fixed board size; or in accordance with the articles of incorporation or bylaws~~

~~(b) A majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.~~

~~(2b) The quorum of the board of directors specified in or fixed in accordance with the articles of incorporation or bylaws may authorize a quorum of a board of directors to not consist of no fewer than one-third (1/3) of the specified or fixed or prescribed number of directors determined under subsection (1) of this section.~~

~~(3c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors or unless otherwise expressly provided in this chapter.~~

~~(4d) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:~~

~~(a1) He The director objects at the beginning of the meeting, or promptly upon his arrival, to holding it or transacting business at the meeting;~~

~~(b2) His The dissent or abstention from the action taken is entered in the minutes of the meeting; or~~

~~(e3) He The director delivers written notice of his the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.~~

SECTION 88. That Section 30-29-825, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-825. BOARD COMMITTEES. ~~(1a)~~ Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create establish one (1) or more board committees and appoint composed exclusively of one (1) or more members directors to perform functions of the board of directors ~~to serve on any such committee.~~

~~(2b) Unless this chapter otherwise provides, tThe creation establishment of a board committee and appointment of members to it must shall be approved by the greater of:~~

~~(a1) A majority of all the directors in office when the action is taken; or~~

~~(b2) The number of directors required by the articles of incorporation or bylaws to take action under section 30-29-824, Idaho Code, unless, in either case, this chapter or the articles of incorporation provide otherwise.~~

~~(3c) Sections 30-29-820 through 30-29-824, Idaho Code, apply both to board committees of the board and to their members.~~

~~(4d) A board committee may exercise the powers of the board of directors under section 30-29-801, Idaho Code, tTo the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under section 30-29-801, Idaho Code.~~

~~(5) A except that a board committee may not, however:~~

~~(a1) Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors;~~

~~(b2) Approve or propose to shareholders action that this chapter requires be approved by shareholders;~~

(e3) Fill vacancies on the board of directors or, subject to subsection (7e) of this section, on any of its board committees; or

(d4) Adopt, amend, or repeal bylaws.

~~(6) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 30-29-830, Idaho Code.~~

(7e) The board of directors may appoint one (1) or more directors as alternate members of any board committee to replace any absent or disqualified member during the member's absence or disqualification. Unless if the articles of incorporation or, the bylaws, or the resolution creating the board committee so provide otherwise, ~~in the event of the absence or disqualification of a member of a committee,~~ the member or members present at any board committee meeting and not disqualified from voting, ~~unanimously,~~ may, by unanimous action, appoint another director to act in place of the an absent or disqualified member during that member's absence or disqualification.

SECTION 89. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-826, Idaho Code, and to read as follows:

30-29-826. SUBMISSION OF MATTERS FOR SHAREHOLDER VOTE. A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter.

SECTION 90. That Section 30-29-830, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-830. STANDARDS OF CONDUCT FOR DIRECTORS. (1a) Each member of the board of directors, when discharging the duties of a director, shall act:

(a1) In good faith; and

(b2) In a manner the director reasonably believes to be in the best interests of the corporation.

(2b) The members of the board of directors or a board committee ~~of the board,~~ when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(3c) In discharging board or board committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(d) In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted, is entitled to rely on the performance by any of the persons specified in subsection (5f) (a1) or (e3) of this section to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one (1) or more of the board's functions that are delegable under applicable law.

(4e) In discharging board or board committee duties a director, who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data prepared or presented by any of the persons specified in subsection (5f) of this section.

(5f) A director is entitled to rely, in accordance with subsection (3d) or (4e) of this section, on:

(a~~1~~) One (1) or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(b~~2~~) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(i) Within the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence; or

(e~~3~~) A board committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

SECTION 91. That Section 30-29-831, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-831. STANDARDS OF LIABILITY FOR DIRECTORS. (1a) A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(a~~1~~) No defense interposed by the director based on aAny provision in the articles of incorporation authorized by section 30-29-202 (2b) (d~~4~~) or (6), Idaho Code, or; the protection afforded by section 30-29-861, Idaho Code, for action taken in compliance with section 30-29-862 or 30-29-863, Idaho Code, if interposed as a bar to the proceeding by the director, does not preclude; or the protection afforded by section 30-29-870, Idaho Code, precludes liability; and

(b~~2~~) The challenged conduct consisted or was the result of:

(i) Action not in good faith; or

(ii) A decision:

(A) That the director did not reasonably believe to be in the best interests of the corporation; or

(B) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances; or

(iii) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(A) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(B) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation; or

(iv) A sustained failure of the director to be informed about devote attention to ongoing oversight of the business and affairs of the corporation, or other material a failure of the to devote timely attention, by making or causing to be made appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to discharge the oversight function need for such inquiry;

or

(v) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

(2b) The party seeking to hold the director liable:

(a1) For money damages, shall also have the burden of establishing that:

(i) Harm to the corporation or its shareholders has been suffered; and

(ii) The harm suffered was proximately caused by the director's challenged conduct; or

(b2) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(e3) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(3c) Nothing contained in this section shall:

(a1) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 30-29-861(2b)(e3), Idaho Code, alter the burden of proving the fact or lack of fairness otherwise applicable;

(b2) Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 30-29-8332, Idaho Code, or a transactional interest under section 30-29-861, Idaho Code; or

(e3) Affect any rights to which the corporation or a shareholder may be entitled under another statute of this state or the United States.

SECTION 92. That Section 30-29-833, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-8332. DIRECTORS' LIABILITY FOR UNLAWFUL DISTRIBUTIONS. (1a) A director who votes for or assents to a distribution in excess of what may be authorized and made pursuant to section 30-29-640(1a) or 30-29-1409(1a), Idaho Code, is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating section 30-29-640(1a) or 30-29-1409(1a), Idaho Code, if the party asserting liability establishes that when taking the action the director did not comply with section 30-29-830, Idaho Code.

(2b) A director held liable under subsection (1a) of this section for an unlawful distribution is entitled to:

(a1) Contribution from every other director who could be held liable under subsection (1a) of this section for the unlawful distribution; and

(b2) Recoupment from each shareholder of the pro rata portion of the amount of the unlawful distribution the shareholder accepted knowing the distribution was made in violation of section 30-29-640(1a) or 30-29-1409(1a), Idaho Code.

(3c) A proceeding to enforce:

(a1) The liability of a director under subsection (1a) of this section is barred unless it is commenced within two (2) years after the date:

(i) On which the effect of the distribution was measured under section 30-29-640(5e) or (7g), Idaho Code; or

- (ii) As of which the violation of section 30-29-640(1a), Idaho Code, occurred as the consequence of disregard of a restriction in the articles of incorporation; or
 - (iii) On which the distribution of assets to shareholders under section 30-29-1409(1a), Idaho Code, was made; or
- (b2) Contribution or recoupment under subsection (2b) of this section is barred unless it is commenced within one (1) year after the liability of the claimant has been finally adjudicated under subsection (1a) of this section.

SECTION 93. That Section 30-29-840, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-840. REQUIRED OFFICERS. (1a) A corporation has the offices described in its bylaws or designated appointed by the board of directors in accordance with the bylaws.

(2b) The board of directors may elect individuals to fill one (1) or more offices of the corporation. An officer may appoint one (1) or more officers if authorized by the bylaws or the board of directors.

(3c) ~~The bylaws or the board of directors shall assign to one (1) of the an officers responsibility for preparing the minutes of the directors' and shareholders' meetings and for maintaining and authenticating the records of the corporation required to be kept under section 30-29-1601(1a) and (2), Idaho Code.~~

(4d) The same individual may simultaneously hold more than one (1) office in a corporation.

SECTION 94. That Section 30-29-841, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-841. DUTIES FUNCTIONS OF OFFICERS. Each officer has the authority and shall perform the duties functions set forth in the bylaws or, to the extent consistent with the bylaws, the duties functions prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties functions of other officers.

SECTION 95. That Section 30-29-842, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-842. STANDARDS OF CONDUCT FOR OFFICERS. (1a) An officer, when performing in such capacity, shall has the duty to act:

- (a1) In good faith;
- (b2) With the care that a person in a like position would reasonably exercise under similar circumstances; and
- (e3) In a manner the officer reasonably believes to be in the best interests of the corporation.

(b) The duty of an officer includes the obligation:

(1) To inform the superior officer to whom, or the board of directors or the board committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to such superior officer, board, or committee; and

(2) To inform his or her superior officer, or another appropriate person within the corporation, or the board of directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation that the officer believes has occurred or is likely to occur.

(2c) In discharging ~~these~~ his or her duties, an officer, who does not have knowledge that makes reliance unwarranted, is entitled to rely on:

(a1) The performance of properly delegated responsibilities by one (1) or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or

(b2) Information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by one (1) or more employees of the corporation whom the officer reasonably believes to be competent in the matters presented or by legal counsel, public accountants or other persons retained by the corporation as to matters involving skill or expertise the officer reasonably believes are matters:

(i) Within the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence.

(3d) An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 30-29-831, Idaho Code, that have relevance.

SECTION 96. That Section 30-29-843, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-843. RESIGNATION AND REMOVAL OF OFFICERS. (1a) An officer may resign at any time by delivering written notice to the corporation board of directors or its chair, or to the appointing officer or the secretary. A resignation is effective when the notice is delivered as provided in section 30-29-141(i), Idaho Code, unless the notice specifies a later effective time provides for a delayed effectiveness, including effectiveness determined upon a future event or events. If effectiveness of a resignation is made effective at a later time stated to be delayed and the board of directors or the appointing officer accepts the future effective time delay, the board of directors or the appointing officer may fill the pending vacancy before the effective time if delayed effectiveness, but the board or the appointing new officer provides that the successor does may not take office until the effective time vacancy occurs.

(2b) An officer may be removed at any time with or without cause by:

(a1) The board of directors;

(b2) ~~The officer who appointed such~~ appointing officer, unless the bylaws or the board of directors provide otherwise; or

(e3) Any other officer if authorized by the bylaws or the board of directors.

(3c) In this section "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

SECTION 97. That Section 30-29-844, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-844. CONTRACT RIGHTS OF OFFICERS. (1a) The election or appointment of an officer does not itself create contract rights.

(2b) An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

SECTION 98. That Section 30-29-850, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-850. DEFINITIONS. For purposes of this section and sections 30-29-851 through 30-29-859, Idaho Code:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee or agent of another domestic entity or foreign corporation, partnership, joint venture, trust, employee benefit plan or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if his the individual's duties to the corporation also impose duties on, or otherwise involve services by, him the individual to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) ~~"Disinterested director" means a director who, at the time of a vote referred to in section 30-29-853(3), Idaho Code, or a vote or selection referred to in section 30-29-855(2) or (3), Idaho Code, is not:~~

~~(a) A party to the proceeding; or~~

~~(b) An individual having a familial, financial, professional or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.~~

~~(4) "Expenses" includes counsel fees.~~

(5) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(64) "Official capacity" means:

(a) When used with respect to a director, the office of director in a corporation; and

(b) When used with respect to an officer, as contemplated in section 30-29-856, Idaho Code, the office in a corporation held by the officer.

"Official capacity" does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan or other entity.

(75) "Party" means an individual who was, is or is threatened to be made, a defendant or respondent in a proceeding.

(86) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitratative or investigative and whether formal or informal.

SECTION 99. That Section 30-29-851, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-851. PERMISSIBLE INDEMNIFICATION. (1a) Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because he the individual is a director against liability incurred in the proceeding if:

(a1) (i) He The director conducted himself or herself in good faith; and

(ii) He The director reasonably believed:

(A) In the case of conduct in his an official capacity, that his or her conduct was in the best interests of the corporation; and

(B) In all other cases, that his or her conduct was at least not opposed to the best interests of the corporation; and

(iii) In the case of any criminal proceeding, he the director had no reasonable cause to believe his or her conduct was unlawful; or

(b2) He The director engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by section 30-29-202 (2b) (e5), Idaho Code.

(2b) A director's conduct with respect to an employee benefit plan for a purpose he the director reasonably believed to be in the best interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement of subsection (1a) (a1) (ii) (B) of this section.

(3c) The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(4d) Unless ordered by a court under section 30-29-854 (1a) (e3), Idaho Code, a corporation may not indemnify a director:

(a1) In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (1a) of this section; or

(b2) In connection with any proceeding with respect to conduct for which he the director was adjudged liable on the basis that he received of receiving a financial benefit to which he or she was not entitled, regardless of whether or not involving it involved action in his the director's official capacity.

SECTION 100. That Section 30-29-852, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-852. MANDATORY INDEMNIFICATION. A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he the director was a party because he or she was a director of the corporation against reasonable expenses incurred by him the director in connection with the proceeding.

SECTION 101. That Section 30-29-853, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-853. ADVANCE FOR EXPENSES. (1a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred in connection with the proceeding by a director an individual who is a party to a the proceeding because he that individual is a director if he the director delivers to the corporation: a signed written undertaking of the director to repay any funds advanced if the director is not entitled to mandatory indemnification under section 30-29-852, Idaho Code; and it is ultimately determined under section 30-29-854 or 30-29-855, Idaho Code, that the director is not entitled to indemnification

~~(a) A written affirmation of his good faith belief that he has met the relevant standard of conduct described in section 30-29-851, Idaho Code, or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 30-29-202 (2) (d), Idaho Code; and~~

~~(b) His written undertaking to repay any funds advanced if he is not entitled to mandatory indemnification under section 30-29-852, Idaho~~

~~Code, and it is ultimately determined under section 30-29-854 or 30-29-855, Idaho Code, that he has not met the relevant standard of conduct described in section 30-29-851, Idaho Code.~~

(2b) The undertaking required by subsection (1a)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(3c) Authorizations under this section shall be made:

(a1) By the board of directors:

(i) If there are two (2) or more disinterested qualified directors, by a majority vote of all the disinterested qualified directors, a majority of whom shall for such purposes constitute a quorum, or by a majority of the members of a committee consisting solely of two (2) or more disinterested qualified directors appointed by such a vote; or

(ii) If there are fewer than two (2) disinterested qualified directors, by the vote necessary for action by the board of directors in accordance with section 30-29-824(3c), Idaho Code, in which authorization directors who ~~do not qualify as disinterested~~ are qualified directors may participate; or

(b2) By the shareholders, but shares owned by or voted under the control of a director who at the time ~~does is~~ is not qualify as a disinterested qualified director may not be voted on the authorization.

SECTION 102. That Section 30-29-854, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-854. COURT-ORDERED INDEMNIFICATION AND ADVANCE FOR EXPENSES. (1a) A director who is a party to a proceeding because he or she is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall:

(a1) Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 30-29-852, Idaho Code;

(b2) Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 30-29-858(1a), Idaho Code; or

(e3) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable:

(i) To indemnify the director; or

(ii) To advance expenses to the director, even if under this paragraph he or she has not met the relevant standard of conduct set forth in section 30-29-851(1a), Idaho Code, failed to comply with section 30-29-853, Idaho Code, or was adjudged liable in a proceeding referred to in section 30-29-851(4d)(a1) or (b2), Idaho Code, but if he the director was adjudged so liable his, indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(2b) If the court determines that the director is entitled to indemnification under subsection (1a)(a1) of this section or to indemnification or advance for expenses under subsection (1a)(b2) of this section, it shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (1a)(e3) of this

section, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

SECTION 103. That Section 30-29-855, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-855. DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION. (1a) A corporation may not indemnify a director under section 30-29-851, Idaho Code, unless authorized for a specific proceeding after a determination has been made that indemnification ~~of the director~~ is permissible because he the director has met the relevant standard of conduct set forth in section 30-29-851, Idaho Code.

(2b) The determination shall be made:

(a1) If there are two (2) or more disinterested qualified directors, by the board of directors by a majority vote of all the disinterested qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two (2) or more disinterested qualified directors appointed by such a vote;

(b2) By special legal counsel:

(i) Selected in the manner prescribed in paragraph (a1) of this subsection; or

(ii) If there are fewer than two (2) disinterested qualified directors, selected by the board of directors, in which selection directors who ~~do are~~ not qualify as disinterested qualified directors may participate; or

(e3) By the shareholders, but shares owned by or voted under the control of a director who at the time ~~does is~~ not qualify as a disinterested qualified director may not be voted on the determination.

(3c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two (2) disinterested qualified directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled to select special legal counsel under subsection (2b) (b2) (ii) of this section ~~to select special legal counsel~~.

SECTION 104. That Section 30-29-856, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-856. INDEMNIFICATION OF OFFICERS. (1a) A corporation may indemnify and advance expenses under ~~this part sections 30-29-850 through 30-29-859, Idaho Code,~~ to an officer of the corporation who is a party to a proceeding because he or she is an officer of the corporation:

(a1) To the same extent as a director; and

(b2) If he or she is an officer but not a director, to such further extent as may be provided by the articles of incorporation, or the bylaws, or by a resolution of adopted or a contract approved by the board of directors, or contract shareholders except for:

(i) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(ii) Liability arising out of conduct that constitutes:

(A) Receipt by him the officer of a financial benefit to which he or she is not entitled;

(B) An intentional infliction of harm on the corporation or the shareholders; or

(C) An intentional violation of criminal law.

(2b) The provisions of subsection (1a) (b2) of this section shall apply to an officer who is also a director if ~~the basis on which he or she is made a party to the proceeding is based on~~ an act or omission solely as an officer.

(3c) ~~An officer of a corporation who is not a director is entitled to mandatory indemnification under section 30-29-852, Idaho Code, and may apply to a court under section 30-29-854, Idaho Code, for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions sections.~~

SECTION 105. That Section 30-29-857, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-857. INSURANCE. A corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by him the individual in that capacity or arising from his the individual's status as a director or officer, regardless of whether or not the corporation would have power to indemnify or advance expenses to him the individual against the same liability under this part; provided that banks, savings and loan associations and credit unions chartered under the laws of the state of Idaho may provide indemnification only by insurance sections 30-29-850 through 30-29-859, Idaho Code.

SECTION 106. That Section 30-29-858, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-858. VARIATION BY CORPORATE ACTION -- APPLICATION OF INDEMNIFICATION PROVISIONS. (1a) A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its the board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 30-29-851, Idaho Code, or advance funds to pay for or reimburse expenses in accordance with section 30-29-853(c), Idaho Code. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 30-29-853(3c), Idaho Code, and in section 30-29-855(3c), Idaho Code. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 30-29-853, Idaho Code, to the fullest extent permitted by law, unless the provision specifically expressly provides otherwise.

(b) A right of indemnification or to advances for expenses created by sections 30-29-850 through 30-29-859, Idaho Code, or under subsection (a) of this section and in effect at the time of an act or omission shall not be eliminated or impaired with respect to such act or omission by an amendment of the articles of incorporation or bylaws or a resolution of the board of directors or shareholders, adopted after the occurrence of such act or omission, unless, in the case of a right created under subsection (a) of this section, the provision creating such right and in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such act or omission has occurred.

(2c) Any provision pursuant to subsection (1a) of this section shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically expressly provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which

the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 30-22-206(a)(4), Idaho Code.

(3d) Subject to the provisions of subsection (b) of this section, a corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part, other than the rights to mandatory indemnification under section 30-29-852, Idaho Code, and to court-ordered indemnification and advance for expenses under section 30-29-854, Idaho Code sections 30-29-850 through 30-29-859, Idaho Code.

(4e) Sections 30-29-850 through 30-29-859, Idaho Code, do not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with his appearance as a witness in a proceeding at a time when he is not a party.

(5f) Sections 30-29-850 through 30-29-859, Idaho Code, do not limit a corporation's power to indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

SECTION 107. That Section 30-29-860, Idaho Code, be, and the same is hereby repealed.

SECTION 108. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-860, Idaho Code, and to read as follows:

30-29-860. DEFINITIONS. As used in sections 30-29-860 through 30-29-863, Idaho Code:

(1) "Control" or "controlled by" means having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise; or being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(2) "Director's conflicting interest transaction" means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, where at the relevant time the director is a party, had knowledge and a material financial interest known to the director, or knew that a related person was a party or had a material financial interest.

(3) "Fair to the corporation" means, for purposes of section 30-29-861(b)(3), Idaho Code, that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was fair in terms of the director's dealings with the corporation, and comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

(4) "Material financial interest" means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

(5) "Related person" means:

(a) The individual's spouse;

(b) A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, stepsibling, half-sibling, aunt, uncle, niece, or nephew, or spouse of any such person, of the individual or of the individual's spouse;

(c) A natural living person living in the same house as the individual;

(d) An entity, other than the corporation or an entity controlled by the corporation, controlled by the individual or any person specified in this subsection;

(e) A domestic or foreign business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the individual is a director; an unincorporated entity of which the individual is a general partner or a member of the governing body; or an individual, trust, or estate for whom, or of which, the individual is a trustee, guardian, personal representative, or like fiduciary; or

(f) A person that is, or an entity that is controlled by, an employer of the individual.

(6) "Relevant time" means the time at which directors' action respecting the transaction is taken in compliance with section 30-29-862, Idaho Code; or if the transaction is not brought before the board of directors, or a committee, for action under section 30-29-862, Idaho Code, at the time the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.

(7) "Required disclosure" means disclosure of the existence and nature of the director's conflicting interest and all facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

SECTION 109. That Section 30-29-861, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-861. JUDICIAL ACTION. (1a) A transaction effected or proposed to be effected by a the corporation or by a subsidiary of an entity controlled by the corporation may not be the subject of equitable relief, or any give rise to an award of damages or other entity in which sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the grounds that the director has a controlling an interest, that respecting the transaction if it is not a director's conflicting interest transaction may not be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, because a director of the corporation, or any person with whom or which he has a personal, economic, or other association, has an interest in the transaction.

(2b) A director's conflicting interest transaction may not be enjoined, set aside, the subject of equitable relief or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, because on the grounds that the director, or any person with whom or which he has a personal, economic, or other association, has an interest in respecting the transaction, if:

(a1) Directors' action respecting the transaction was at any time taken in compliance with section 30-29-862, Idaho Code, at any time;

(b2) Shareholders' action respecting the transaction was at any time taken in compliance with section 30-29-863, Idaho Code, at any time; or

(e3) The transaction, judged according to the circumstances at the relevant time of commitment, is established to have been fair to the corporation.

SECTION 110. That Section 30-29-862, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-862. DIRECTORS' ACTION. (1a) Directors' action respecting a director's conflicting interest transaction is effective for purposes of section 30-29-861(2b)(a1), Idaho Code, if the transaction received has been authorized by the affirmative vote of a majority, but no fewer than two (2), of those the qualified directors on the board of directors or on a duly empowered committee of the board who voted on the transaction after either

~~required disclosure to them, to the extent by the conflicted director of information was not already known by them, or by such qualified directors, or after modified disclosure in compliance with subsection (2b) of this section; provided that action by a committee is so effective only if:~~

~~(a1) All of its members are The qualified directors have deliberated and voted outside the presence of and without the participation by any other director; and~~

~~(b2) Its Where the action has been taken by a board committee, all members are of the committee were qualified directors, and either the committee was composed of all the qualified directors on the board or are of directors, or the members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board of directors.~~

~~(2) If a director has a conflicting interest respecting a transaction, but neither he nor a related person of the director specified in section 30-29-860(3) (a), Idaho Code, is a party to the transaction, and if the director has a duty under law or professional canon, or a duty of confidentiality to another person, respecting information relating to the transaction such that the director may not make the disclosure described in section 30-29-860(4) (b), Idaho Code, then disclosure is sufficient for purposes of subsection (1) of this section if the director~~

~~(b) Notwithstanding the provisions of subsection (a) of this section, when a transaction is a director's conflicting interest transaction, only because a related person described in section 30-29-860(3) (e) or (f), Idaho Code, is a party to or has a material financial interest in the transaction, the conflicted director is not obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted director discloses to the qualified directors voting on the transaction:~~

~~(a1) Discloses to the directors voting on the transaction the existence and nature of his conflicting interest and informs them of the character and limitations imposed by that duty before their vote on the transaction All information required to be disclosed that is not so violative; and~~

~~(b2) Plays no part, directly or indirectly, in their deliberations or vote The existence and nature of the director's conflicting interest; and~~

~~(3) The nature of the conflicted director's duty not to disclose the confidential information.~~

~~(3c) A majority, but no fewer than two (2), of all the qualified directors on the board of directors, or on the board committee, constitutes a quorum for purposes of action that complies with this section. Directors' action that otherwise complies with this section is not affected by the presence or vote of a director who is not a qualified director.~~

~~(4) For purposes of this section, "qualified director" means, with respect to a director's conflicting interest transaction, any director who does not have either:~~

~~(a) A conflicting interest respecting the transaction; or~~

~~(b) A familial, financial, professional or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction.~~

(d) Where directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws or a provision of law, independent action to satisfy those authorization requirements shall be taken by the board of directors or a board committee, in which action directors who are not qualified directors may participate.

SECTION 111. That Section 30-29-863, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-863. SHAREHOLDERS' ACTION. (1a) Shareholders' action respecting a director's conflicting interest transaction is effective for purposes of section 30-29-861(2b)(b2), Idaho Code, if a majority of the votes entitled to be cast by the holders of all qualified shares were cast are in favor of the transaction after:

(a1) Notice to shareholders describing the director's conflicting interest action to be taken respecting the transaction;

(b2) Provision to the corporation of the information referred to in subsection (4b) of this section; and

(e3) Required disclosure Communication to the shareholders who voted entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information was is not known by them. In the case of shareholders' action at a meeting, the shareholders entitled to vote shall be determined as of the record date for notice of the meeting.

~~(2) For purposes of this section, "qualified shares" means any shares entitled to vote with respect to the director's conflicting interest transaction except shares that, to the knowledge, before the vote, of the secretary, or other officer or agent of the corporation authorized to tabulate votes, are beneficially owned, or the voting of which is controlled, by a director who has a conflicting interest respecting the transaction or by a related person of the director, or both.~~

~~(3) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of action that complies with this section. Subject to the provisions of subsections (4) and (5) of this section, shareholders' action that otherwise complies with this section is not affected by the presence of holders, or the voting of shares that are not qualified shares.~~

~~(4b) For purposes of compliance with subsection (1) of this section, a A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary, or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection (c) of this section, and the identity of persons holding or controlling the vote, of all holders of those shares that the director knows are beneficially owned, or the voting of which is controlled, by the director or by a related person of the director, or both.~~

(c) As used in this section:

(1) "Holder" means and "held by" refers to shares held by a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner; and

(2) "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection (b) of this section is notified, are held by either a director who has a conflicting interest respecting the transaction or a related person of the director, not including a person described in section 30-29-860(4)(f), Idaho Code.

(d) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of compliance with this section. Subject to the provisions of subsection (e) of this section, shareholders' action that otherwise complies with this section is not affected by the presence of holders or by the voting of shares that are not qualified shares.

(5e) If a shareholders' vote does not comply with subsection (1a) of this section solely because of a director's failure of a director to comply with subsection (4b) of this section, and if the director establishes that his the failure did not determine and was not intended by him to influence, and did not in fact determine, the outcome of the vote, the court may, with or without further proceedings respecting section 30-29-861(2)(c), Idaho Code, take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as it the court considers appropriate in the circumstances.

(f) Where shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or the bylaws or a provision of law, independent action to satisfy those authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

SECTION 112. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-870, Idaho Code, and to read as follows:

30-29-870. BUSINESS OPPORTUNITIES. (a) If a director or officer pursues or takes advantage of a business opportunity directly, or indirectly through or on behalf of another person, that action may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, officer, or other person, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if:

(1) Before the director, officer, or other person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation and either:

(i) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the same procedures as are set forth in the provisions of section 30-29-862, Idaho Code; or

(ii) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in the provisions of section 30-29-863, Idaho Code, in either case as if the decision being made concerned a director's conflicting interest transaction, except that, rather than making the required disclosure as defined in section 30-29-860, Idaho Code, the director or officer shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity known to the director or officer; or

(2) The duty to offer the corporation the business opportunity has been limited or eliminated pursuant to a provision of the articles of incorporation adopted, and where required, made effective by action of qualified directors, in accordance with the provisions of section 30-29-202(b)(6), Idaho Code.

(b) In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, directly, or indirectly through or on behalf of another person, the fact that the director or officer did not em-

ploy the procedure described in paragraph (i) or (ii) of subsection (a) (1) of this section before pursuing or taking advantage of the opportunity shall not create an implication that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances.

SECTION 113. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 9, Chapter 29, Title 30, Idaho Code, and to read as follows:

PART 9
DOMESTICATION AND CONVERSION

30-29-901. DEFINITIONS. (a) As used in this part:

(1) "Domesticated corporation" means a domesticated entity that is a corporation.

(2) "Domesticating corporation" means a domesticating entity that is a corporation.

(b) The following definitions in chapter 22, title 30, Idaho Code, shall apply to this part:

(1) "Conversion" is as defined in section 30-22-102 (a) (4), Idaho Code.

(2) "Converted entity" is as defined in section 30-22-102 (a) (5), Idaho Code.

(3) "Converting entity" is as defined in section 30-22-102 (a) (6), Idaho Code.

(4) "Domesticated entity" is as defined in section 30-22-102 (a) (7), Idaho Code.

(5) "Domesticating entity" is as defined in section 30-22-102 (a) (8), Idaho Code.

(6) "Domestication" is as defined in section 30-22-102 (a) (9), Idaho Code.

(7) "Protected agreement" is as defined in section 30-22-102 (a) (19), Idaho Code.

30-29-921. ACTION ON A PLAN OF DOMESTICATION. In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner, notwithstanding the provisions of section 30-22-503 (a), Idaho Code:

(a) The plan of domestication shall first be adopted by the board of directors.

(b) The plan of domestication shall then be approved by the shareholders. In submitting the plan of domestication to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, unless either the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation; or section 30-29-826, Idaho Code, applies. In either case, the board shall inform the shareholders of the basis for its so proceeding.

(c) The board of directors may set conditions for approval of the plan of domestication by the shareholders or the effectiveness of the plan of domestication.

(d) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice must state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of domestication and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the articles of incorpora-

tion and the bylaws as they will be in effect immediately after the domestication.

(e) Unless the articles of incorporation, or the board of directors acting pursuant to subsection (c) of this section, require a greater vote or a greater quorum, approval of the plan of domestication requires the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan, and, except as provided in subsection (f) of this section, the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

(f) The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection (e) of this section as to any class or series of shares, except when the articles of incorporation of the foreign corporation resulting from the domestication include what would be in effect an amendment that would entitle the class or series to vote as a separate group under section 30-29-1004, Idaho Code, if it were a proposed amendment of the articles of incorporation of the domestic domesticating corporation.

(g) If as a result of a domestication one (1) or more shareholders of a domestic corporation would become subject to interest holder liability, approval of the plan of domestication shall require the signing in connection with the domestication, by each such shareholder, of a separate written consent to become subject to such interest holder liability, unless in the case of a shareholder that already has interest holder liability with respect to the domesticating corporation, the terms and conditions of the interest holder liability with respect to the domesticated corporation are substantially identical to those of the existing interest holder liability other than for changes that eliminate or reduce such interest holder liability.

30-29-922. ARTICLES OF DOMESTICATION -- EFFECTIVENESS. Notwithstanding the provisions of section 30-22-505(b) (4), Idaho Code, a statement of domestication of a domesticating corporation shall include a statement that the plan of domestication was approved in accordance with this section.

30-29-924. EFFECT OF DOMESTICATION. (a) When a domestication becomes effective, the domesticated corporation is deemed to have been incorporated on the date the domesticating corporation was originally incorporated.

(b) When a domestication of a domestic corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to agree that it will promptly pay the amount, if any, to which shareholders who exercise appraisal rights in connection with the domestication are entitled under part 13 of this chapter.

(c) Notwithstanding the provisions of section 30-22-506(c) and (d), Idaho Code, except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder in a foreign corporation that is domesticated into this state who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:

(1) The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.

(2) The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(3) The shareholder shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(4) The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that are incurred after the domestication becomes effective.

(d) Notwithstanding the provisions of section 30-22-506(c) and (d), Idaho Code, a shareholder who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.

30-29-932. ACTION ON A PLAN OF CONVERSION. In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity, the plan of conversion shall be adopted in the following manner, notwithstanding the provisions of section 30-22-403(a), Idaho Code:

(a) The plan of conversion shall first be adopted by the board of directors.

(b) The plan of conversion shall then be approved by the shareholders. In submitting the plan of conversion to the shareholders for their approval, the board of directors must recommend that the shareholders approve the plan, unless either the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation; or section 30-29-826, Idaho Code, applies. In either case, the board of directors shall inform the shareholders of the basis for its so proceeding.

(c) The board of directors may set conditions for approval of the plan of conversion by the shareholders or the effectiveness of the plan of conversion.

(d) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of conversion is to be submitted for approval. The notice must state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of conversion and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the organic rules of the converted entity which are to be in writing as they will be in effect immediately after the conversion.

(e) Unless the articles of incorporation, or the board of directors acting pursuant to subsection (c) of this section, require a greater vote or a greater quorum, approval of the plan of conversion requires the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan, and the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

(f) If as a result of the conversion one (1) or more shareholders of the converting domestic corporation would become subject to interest holder liability, approval of the plan of conversion shall require the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such interest holder liability.

30-29-933. ARTICLES OF CONVERSION -- EFFECTIVENESS. Notwithstanding the provisions of section 30-22-405(b) (4), Idaho Code, a statement of conversion of a domestic converting corporation shall include a statement that the plan of conversion was approved in accordance with this section.

30-29-935. EFFECT OF CONVERSION. (a) When a conversion becomes effective, the converted entity is deemed to have been incorporated or otherwise organized on the date that the converting entity was originally incorporated or organized.

(b) When a conversion of a domestic corporation to a foreign eligible entity becomes effective, the converted entity is deemed to agree that it will promptly pay the amount, if any, to which shareholders who exercise appraisal rights in connection with the conversion are entitled under part 13 of this chapter.

(c) Notwithstanding the provisions of section 30-22-406(c) and (d), Idaho Code, and except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a foreign corporation or a domestic or foreign eligible entity, a shareholder or eligible interest holder who becomes subject to interest holder liability in respect of a domestic corporation or eligible entity as a result of the conversion shall have such interest holder liability only in respect of interest holder liabilities that arise after the conversion becomes effective.

(d) Except as otherwise provided in the organic law or the organic rules of the eligible entity, the interest holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

(1) The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

(2) The provisions of the organic law of the eligible entity shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (1) of this subsection, as if the conversion had not occurred.

(3) The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by paragraph (1) of this subsection, as if the conversion had not occurred.

(4) The eligible interest holder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

SECTION 114. That Section 30-29-1001, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1001. ~~AUTHORITY TO AMEND ARTICLES OF INCORPORATION.~~ (1a) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

(2b) A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend, entitlement, or purpose or duration of the corporation.

SECTION 115. That Section 30-29-1003, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1003. AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS. If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

(1a) The proposed amendment ~~must~~ shall first be adopted by the board of directors.

(2b) Except as provided in sections 30-29-1005, 30-29-1007 and 30-29-1008, Idaho Code, after adopting the amendment shall then be approved by the shareholders. In submitting the proposed amendment, the board of directors must submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation shall recommend that the shareholders approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors must transmit to the shareholders the basis for that determination or unless section 30-29-826, Idaho Code, applies. In either case, the board must inform the shareholders of the basis for its so proceeding.

(3c) The board of directors may set conditions its submission for the approval of the amendment to by the shareholders on any basis or the effectiveness of the amendment.

(4d) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation ~~must~~ shall notify each shareholder, ~~regardless of whether or not~~ entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice ~~must~~ state that the purpose, or one (1) of the purposes, of the meeting is to consider the amendment ~~and~~. The notice must contain or be accompanied by a copy of the amendment.

(5e) Unless the articles of incorporation, or the board of directors acting pursuant to subsection (3c) of this section, require a greater vote or a greater number of shares to be present quorum, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of ~~at least~~ a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as provided in section 30-29-1004(3c), Idaho Code, the approval of each such separate voting group at a meeting at which a quorum of the voting group ~~exists~~ consisting of ~~at least~~ a majority of the votes entitled to be cast on the amendment by that voting group ~~exists~~.

(f) If as a result of an amendment of the articles of incorporation one (1) or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the amendment requires the signing in connection with the amendment, by each such shareholder, of a separate written consent to become subject to such new interest holder liability, unless in the case of a shareholder that already has interest holder liability the terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability; or are substantially identical to those of the existing interest holder liability, other than changes that eliminate or reduce such interest holder liability.

(g) For purposes of subsection (f) of this section and section 30-29-1009, Idaho Code, "new interest holder liability" means interest holder liability of a person resulting from an amendment of the articles of incorporation if the person did not have interest holder liability before the amendment becomes effective; or the person had interest holder liability before the amendment becomes effective, the terms and conditions of which are changed when the amendment becomes effective.

SECTION 116. That Section 30-29-1004, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1004. VOTING ON AMENDMENTS BY VOTING GROUPS. ~~Except as otherwise provided in the articles of incorporation:~~

~~(1a) If a corporation has more than one (1) class of shares outstanding, the holders of the outstanding shares of a class, whether voting or nonvoting in whole or in part, are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:~~

~~(a) Increase or decrease the aggregate number of authorized shares of the class;~~

~~(b1) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;~~

~~(e2) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;~~

~~(d3) Change the rights, preferences or limitations of all or part of the shares of the class;~~

~~(e4) Change the shares of all or part of the class into a different number of shares of the same class;~~

~~(f5) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, or superior or substantially equal to the shares of the class;~~

~~(g6) Increase the rights, preferences or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, or superior or substantially equal to the shares of the class;~~

~~(h7) Limit or deny an existing preemptive right of all or part of the shares of the class; or~~

~~(i8) Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.~~

(2b) If a proposed amendment would affect a series of a class of shares in one (1) or more of the ways described in subsection (1a) of this section, the holders of shares of that series are entitled to vote as a separate voting group on the proposed amendment.

(3c) If a proposed amendment that entitles the holders of two (2) or more classes or series of shares to vote as separate voting groups under this section would affect those two (2) or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected ~~must~~ shall vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or ~~required~~ added as a condition by the board of directors pursuant to section 30-29-1003(c), Idaho Code.

(d) A class or series of shares is entitled to the voting rights granted by this section even if the articles of incorporation provide that the shares are nonvoting shares.

SECTION 117. That Section 30-29-1005, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1005. AMENDMENT BY BOARD OF DIRECTORS. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval:

(1a) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2b) To delete the names and addresses of the initial directors;

(3c) To change delete the information required by section 30-405, Idaho Code, on its name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state;

(4d) If the corporation has only one (1) class of shares outstanding:

(a₁) To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

(b₂) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(5e) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting or changing a geographical attribution for the name;

(6f) To reflect a reduction in authorized shares, as a result of the operation of section 30-29-631(2b), Idaho Code, when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(7g) To delete a class of shares from the articles of incorporation, as a result of the operation of section 30-29-631(2b), Idaho Code, when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(8h) To make any change expressly permitted by section 30-29-602(1a) or (2b), Idaho Code, to be made without shareholder approval.

SECTION 118. That Section 30-29-1006, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1006. ARTICLES OF AMENDMENT. (a) After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the corporation shall deliver to the secretary of state for filing articles of amendment, which shall must set forth:

(1) The name of the corporation;

(2) The text of each amendment adopted or the information required by section 30-29-120(d)(5), Idaho Code;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself that may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with section 30-29-120(d)(5), Idaho Code;

(4) The date of each amendment's adoption; and

(5) If an amendment:

(a_i) Was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly approved adopted by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required;

(b_{ii}) Required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or

(c_{iii}) Is being filed pursuant to section 30-29-120(2d)(e₅), Idaho Code, a statement to that effect.

(b) Articles of amendment shall take effect at the effective date determined in accordance with section 30-29-123, Idaho Code.

SECTION 119. That Section 30-29-1007, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1007. RESTATED ARTICLES OF INCORPORATION. (1a) A corporation's board of directors may restate its articles of incorporation at any time, ~~with or~~ without shareholder approval, to consolidate all amendments into a single document.

(2b) If the restated articles include one (1) or more new amendments that require shareholder approval, the amendments ~~must~~ shall be adopted and approved as provided in section 30-29-1003, Idaho Code.

(3c) A corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate that states, a statement that the restated articles consolidate all amendments into a single document, and, if a new amendment is included in the restated articles, which also includes the statements required under section 30-29-1006, Idaho Code, with respect to the new amendment.

(4d) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments ~~thereto~~ to the articles of incorporation.

(5e) The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the ~~certificate information~~ statements required by subsection (3c) of this section.

SECTION 120. That Section 30-29-1008, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1008. AMENDMENT PURSUANT TO REORGANIZATION. (1a) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States.

(2b) The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth:

(a1) The name of the corporation;

(b2) The text of each amendment approved by the court;

(c3) The date of the court's order or decree approving the articles of amendment;

(d4) The title of the reorganization proceeding in which the order or decree was entered; and

(e5) A statement that the court had jurisdiction of the proceeding under federal statute.

(3c) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

SECTION 121. That Section 30-29-1009, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1009. EFFECT OF AMENDMENT. (a) An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than the shareholders of the corporation. An amendment changing a corporation's name does not ~~abate~~ affect a proceeding brought by or against the corporation in its former name.

(b) A shareholder who becomes subject to new interest holder liability in respect of the corporation as a result of an amendment to the articles of incorporation shall have that new interest holder liability only in respect of interest holder liabilities that arise after the amendment becomes effective.

(c) Except as otherwise provided in the articles of incorporation of the corporation, the interest holder liability of a shareholder who had interest holder liability in respect of the corporation before the amendment becomes effective and has new interest holder liability after the amendment becomes effective shall be as follows:

(1) The amendment does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the amendment becomes effective.

(2) The provisions of the articles of incorporation of the corporation relating to interest holder liability as in effect immediately prior to the amendment shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (1) of this subsection, as if the amendment had not occurred.

(3) The shareholder shall have such rights of contribution from other persons as are provided by the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment with respect to any interest holder liabilities preserved by paragraph (1) of this subsection, as if the amendment had not occurred.

(4) The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the amendment becomes effective.

SECTION 122. That Section 30-29-1020, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1020. ~~AMENDMENT BY BOARD OF DIRECTORS OR SHAREHOLDERS AUTHORITY TO AMEND.~~ (1a) A corporation's shareholders may amend or repeal the corporation's bylaws.

(2b) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

(a1) The articles of incorporation ~~or~~, section 30-29-1021, Idaho Code, or, if applicable, section 30-29-1022, Idaho Code, reserve that power exclusively to the shareholders in whole or in part; or

(b2) Except as provided in section 30-29-206(d), Idaho Code, the shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors may not amend, repeal, or reinstate adopt that bylaw.

(c) A shareholder of the corporation does not have a vested property right resulting from any provision in the bylaws.

SECTION 123. That Section 30-29-1021, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1021. BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR DIRECTORS. (1a) A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed:

(a1) If originally adopted by the shareholders, only by the shareholders unless the bylaws otherwise provides; or

(b2) If adopted by the board of directors, either by the shareholders or by the board of directors.

(2b) A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3c) Action by the board of directors under subsection (1a) of this section to amend or repeal a bylaw that changes the a quorum or voting requirement for the board of directors ~~must~~ shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and

voting requirement then in effect or proposed to be adopted, whichever is greater.

SECTION 124. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-1022, Idaho Code, and to read as follows:

30-29-1022. BYLAW PROVISIONS RELATING TO THE ELECTION OF DIRECTORS. (a) Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in section 30-29-728(a), Idaho Code, or provide for cumulative voting, a corporation may elect in its bylaws to be governed in the election of directors as follows:

(1) Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes;

(2) To be elected, a nominee shall have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present, provided that a nominee who is elected but receives more votes against than for election shall serve as a director for a term that shall terminate on the date that is the earlier of:

(i) Ninety (90) days from the date on which the voting results are determined pursuant to part 7 of this chapter; or

(ii) The date on which an individual is selected by the board of directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the board to which section 30-29-810, Idaho Code, applies. Subject to paragraph (3) of this subsection, a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the ninety (90) day period referenced above; and

(3) The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

(b) Subsection (a) of this section does not apply to an election of directors by a voting group if at the expiration of the time fixed under a provision requiring advance notification of director candidates or absent such a provision, at a time fixed by the board of directors which is not more than fourteen (14) days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one (1) or more of whom are properly proposed by shareholders. An individual shall not be considered a candidate for purposes of this subsection if the board of directors determines before the notice of meeting is given that such individual's candidacy does not create a bona fide election contest.

(c) A bylaw electing to be governed by this section may be repealed:

(1) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides; or

(2) If adopted by the board of directors, or the shareholders.

SECTION 125. That the Heading for Part 11, Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended to read as follows:

PART 11

MERGERS AND SHARE EXCHANGES

SECTION 126. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-1101, Idaho Code, and to read as follows:

30-29-1101. DEFINITIONS. As used in this part:

(a) "New interest holder liability" means interest holder liability of a person, resulting from a merger or share exchange, that is:

(1) In respect of an entity that is different from the entity in which the person held shares or eligible interests immediately before the merger or share exchange became effective; or

(2) In respect of the same entity as the one in which the person held shares or eligible interests immediately before the merger or share exchange became effective if:

(i) The person did not have interest holder liability immediately before the merger or share exchange became effective; or

(ii) The person had interest holder liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share exchange became effective.

(b) "Party to a merger" means any domestic or foreign corporation or eligible entity that will merge under a plan of merger but does not include a survivor created by the merger.

(c) "Survivor" in a merger means the domestic or foreign corporation or eligible entity into which one (1) or more other corporations or eligible entities are merged.

(d) The following definitions outside this chapter shall apply to this part:

(1) "Acquired entity" is as defined in section 30-22-102(a)(1), Idaho Code.

(2) "Acquiring entity" is as defined in section 30-22-102(a)(2), Idaho Code.

SECTION 127. That Section 30-29-1104, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1104. ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE. In the case of a domestic corporation that is a party to a merger or the acquired entity in a share exchange, the plan of merger or share exchange shall be adopted in the following manner notwithstanding the provisions of sections 30-22-203(a) and 30-22-303(a), Idaho Code:

~~(1a)~~ (1a) The plan of merger or share exchange ~~must~~ shall first be adopted by the board of directors.

~~(2b)~~ (2b) Except as provided in subsections ~~(7h)~~, (j), and (1) of this section and in section 30-29-1105, Idaho Code, ~~after adopting the plan of merger or share exchange the board of directors must submit~~ shall then be approved by the shareholders. In submitting the plan of merger or share exchange to the shareholders for their approval, the board of directors must also transmit to the shareholders a recommendation shall recommend that the shareholders approve the plan or, in the case of an offer referred to in subsection (j)(2) of this section, that the shareholders tender their shares to the offeror in response to the offer, unless either the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case or section 30-29-826, Idaho Code, applies. In either case, the board of directors must transmit to shall inform the shareholders of the basis for that determination its so proceeding.

~~(3c)~~ (3c) The board of directors may ~~set conditions its submission for the approval of the plan of merger or share exchange to by the shareholders on any basis or the effectiveness of the plan of merger or share exchange.~~

(4d) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation ~~must~~ shall notify each shareholder, regardless of whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing foreign or domestic corporation or eligible entity, the notice ~~shall~~ must also include or be accompanied by a copy or summary of the articles of incorporation ~~or organizational documents~~ and bylaws of the organic rules of that corporation or eligible entity. If the corporation is to be merged ~~into with a~~ domestic or foreign corporation or eligible entity ~~that and a new domestic or foreign corporation or eligible entity is to be created pursuant to the merger,~~ the notice ~~shall~~ must include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or organizational documents the organic rules of the new corporation or eligible entity.

(5e) Unless the articles of incorporation, or the board of directors acting pursuant to subsection (3c) of this section, requires a greater vote or a ~~greater number of votes to be present~~ quorum, approval of the plan of merger or share exchange requires the approval of the shareholders at a meeting at which a quorum exists consisting of ~~at least~~ a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group is present at a meeting at which a quorum of the voting group consisting of ~~at least~~ a majority of the votes entitled to be cast on the merger or share exchange by that voting group is present.

(6f) Subject to subsection (g) of this section, separate voting by voting groups is required:

(a1) On a plan of merger, by each class or series of shares that:

(i) Are to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing; or

(ii) ~~Would be~~ Are entitled to vote as a separate group on a provision in the plan that, ~~if contained in~~ constitutes a proposed amendment to the articles of incorporation, ~~would require of a surviving corporation that requires action by separate voting groups under section 30-29-1004, Idaho Code;~~

(b2) On a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group; and

(e3) On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange, respectively.

(g) The articles of incorporation may expressly limit or eliminate the separate voting rights provided in paragraph (i) of subsection (f) (1) and subsection (f) (2) of this section as to any class or series of shares, except when the plan of merger or share exchange includes what is or would be in effect an amendment subject to paragraph (i) of subsection (f) (1) of this section and paragraph (ii) of subsection (f) (1) of this section will not effect a substantive business combination.

(7h) Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger ~~or share exchange~~ is not required if:

(a1) The corporation will survive the merger ~~or is the acquiring corporation in a share exchange;~~

(b~~2~~) Except for amendments permitted by section 30-29-1005, Idaho Code, its articles of incorporation will not be changed;

(e~~3~~) Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, rights and limitations, and relative rights, immediately after the effective date of change the merger; and

(d~~4~~) The issuance in the merger ~~or share exchange~~ of shares or other securities convertible into or rights exercisable for shares does not require a vote under section 30-29-621 (6f), Idaho Code.

(8i) If as a result of a merger or share exchange one (1) or more shareholders of a domestic corporation would become subject to owner new interest holder liability for the debts, obligations or liabilities of any other person or entity, approval of the plan of merger or share exchange shall requires the signing in connection with the execution transaction, by each such shareholder, of a separate written consent to become subject to such owner new interest holder liability unless in the case of a shareholder that already has interest holder liability with respect to such domestic corporation, the new interest holder liability is with respect to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the person is a shareholder; and the terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability other than for changes that eliminate or reduce such interest holder liability.

(j) Unless the articles of incorporation otherwise provide, approval by the shareholders of a plan of merger or share exchange is not required if:

(1) The plan of merger or share exchange expressly permits or requires the merger or share exchange to be effected under this subsection and provides that, if the merger or share exchange is to be effected under this subsection, the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph (6) of this subsection;

(2) Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms provided in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing;

(3) The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph (6) of this subsection and that the shares of the corporation that are not tendered in response to the offer will be treated as set forth in paragraph (8) of this subsection;

(4) The offer remains open for at least ten (10) days;

(5) The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

(6) The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this subsection, would be required by this chapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the approval were present and voted:

(i) Shares purchased by the offeror in accordance with the offer;
(ii) Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and
(iii) Shares subject to an agreement that they are to be transferred, contributed or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent or subsidiary;

(7) The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation; and

(8) Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in paragraph (6) (ii) or (iii) of this subsection need not be converted into or exchanged for the consideration described in this paragraph.

(k) As used in subsection (j) of this section:

(1) "Offer" means the offer referred to in subsection (j) (2) of this section;

(2) "Offeror" means the person making the offer;

(3) "Parent" of an entity means a person that owns, directly or indirectly, through one (1) or more wholly owned subsidiaries, all of the outstanding shares of or eligible interests in that entity;

(4) Shares tendered in response to the offer shall be deemed to have been "purchased" in accordance with the offer at the earliest time as of which the offeror has irrevocably accepted those shares for payment; and either in the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares or in the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent; and

(5) "Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one (1) or more wholly owned subsidiaries, all of the outstanding shares or eligible interests.

(1) Unless the articles of incorporation otherwise provide:

(1) Approval of a plan of share exchange by the shareholders of a domestic corporation is not required if the corporation is the acquiring entity in the share exchange; and

(2) Shares not to be exchanged under the plan of share exchange are not entitled to vote on the plan.

SECTION 128. That Section 30-29-1105, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1105. MERGER BETWEEN PARENT AND SUBSIDIARY OR BETWEEN SUBSIDIARIES. (1a) A domestic or foreign parent corporation entity that owns shares of a domestic or foreign corporation that carry at least ninety percent (90%) of the voting power of each class and series of the outstanding shares of the subsidiary that have has voting power may merge the subsidiary

into itself or into another such subsidiary, if it is a domestic or foreign corporation or eligible entity, or into another domestic or foreign corporation or eligible entity in which the parent entity owns at least ninety percent (90%) of the voting power of each class and series of the outstanding shares or eligible interests which have voting power, or merge itself, if it is a domestic or foreign corporation or eligible entity, into such subsidiary, in either case without the approval of the board of directors or shareholders of the subsidiary unless the articles of incorporation of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized or organic rules of the parent entity or the articles of incorporation of the subsidiary corporation otherwise provide. Section 30-29-1104(k), Idaho Code, applies to a merger under this section. The articles of merger relating to a merger under this section do not need to be signed by the subsidiary.

~~(2b) If under subsection (1) of this section approval of a merger by the subsidiary's shareholders is not required, the A parent corporation entity shall, within ten (10) days after the effective date of the a merger approved under subsection (a) of this section, notify each of the subsidiary's shareholders that the merger has become effective.~~

(3c) Except as provided in subsections (1a) and (2b) of this section, a merger between a parent entity and a domestic subsidiary corporation shall be governed by the provisions of this part applicable to mergers generally.

SECTION 129. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-1107, Idaho Code, and to read as follows:

30-29-1107. EFFECT OF MERGER OR SHARE EXCHANGE. (a) Notwithstanding the provisions of sections 30-22-206(c) and (d) and 30-22-306(c) and (d), Idaho Code, and except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law governing or organic rules of a foreign corporation or a domestic or foreign eligible entity, the effect of a merger or share exchange on interest holder liability is as follows:

(1) A person who becomes subject to new interest holder liability in respect of an entity as a result of a merger or share exchange shall have that new interest holder liability only in respect of interest holder liabilities that arise after the merger or share exchange becomes effective.

(2) If a person had interest holder liability with respect to a party to the merger or the acquired entity before the merger or share exchange becomes effective with respect to shares or eligible interests of such party or acquired entity that were exchanged in the merger or share exchange; were canceled in the merger; or the terms and conditions of which relating to interest holder liability were amended pursuant to the merger:

(i) The merger or share exchange does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the merger or share exchange becomes effective.

(ii) The provisions of the organic law governing any entity for which the person had that prior interest holder liability shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subparagraph (i) of this paragraph, as if the merger or share exchange had not occurred.

(iii) The person shall have such rights of contribution from other persons as are provided by the organic law governing the entity for which the person had that prior interest holder liability with respect to any interest holder liabilities preserved by subpara-

graph (i) of this paragraph, as if the merger or share exchange had not occurred.

(iv) The person shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the merger or share exchange becomes effective.

(3) If a person has interest holder liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the entity that is the survivor by reason of owning the same shares or eligible interests before and after the merger becomes effective, the merger has no effect on such interest holder liability.

(4) A share exchange has no effect on interest holder liability related to shares or eligible interests of the acquired entity that were not exchanged in the share exchange.

(b) Upon a merger becoming effective, a foreign corporation, or a foreign eligible entity, that is the survivor of the merger is deemed to agree that it will promptly pay the amount, if any, to which shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights are entitled under part 13 of this chapter.

SECTION 130. That Section 30-29-1201, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1201. DISPOSITION OF ASSETS NOT REQUIRING SHAREHOLDER APPROVAL. No approval of the shareholders of a corporation is required, unless the articles of incorporation otherwise provide:

(1a) To sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets in the usual and regular course of business;

(2b) To mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, regardless of whether or not in the usual and regular course of business; or

(3c) To transfer any or all of the corporation's assets to one (1) or more domestic or foreign corporations or eligible other entities all of the shares or interests of which are owned by the corporation; or

(4d) To distribute assets pro rata to the holders of one (1) or more classes or series of the corporation's shares.

SECTION 131. That Section 30-29-1202, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1202. SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS. (1a) A sale, lease, exchange or other disposition of assets, other than a disposition described in section 30-29-1201, Idaho Code, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation will conclusively be deemed to have retained a significant continuing business activity if it retains a business activity that represented, for the corporation and its subsidiaries on a consolidated basis, at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year, and either twenty-five percent (25%) of either income from continuing operations before taxes or twenty-five percent (25%) of revenues from continuing operations for that the most recently completed fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing business activity.

(2b) A disposition that requires To obtain the approval of the shareholders under subsection (1a) of this section shall be initiated by a resolution by, the board of directors shall first adopt a resolution authoriz-

ing the disposition. ~~After adoption of such a resolution, the board of directors~~ The disposition shall submit the proposed then be approved by the shareholders. In submitting the disposition to the shareholders for their approval, ~~tThe board of directors shall also transmit to the shareholders a recommendation~~ recommend that the shareholders approve the proposed disposition, unless either the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors; ~~or section 30-29-826, Idaho Code, applies. In either case, the board shall transmit to inform the shareholders of the basis for that determination~~ its so proceeding.

(3c) The board of directors may ~~set conditions its submission for the approval by the shareholders of a disposition to the shareholders under subsection (1) of this section on any basis~~ or the effectiveness of the disposition.

(4d) If a disposition is required to be approved by the shareholders under subsection (1a) of this section, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether or not entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice shall must state that the purpose, or one (1) of the purposes, of the meeting is to consider the disposition and shall must contain a description of the disposition, including the terms and conditions thereof of the disposition and the consideration to be received by the corporation.

(5e) Unless the articles of incorporation or the board of directors, acting pursuant to subsection (3c) of this section, require a greater vote or a greater number of votes to be present quorum, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum exists consisting of ~~at least~~ a majority of the votes entitled to be cast on the disposition exists.

(6f) After a disposition has been approved by the shareholders under ~~subsection (2) of this section part,~~ and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

(7g) A disposition of assets in the course of dissolution under part 14 of this chapter is not governed by this section.

(8h) The assets of a direct or indirect consolidated subsidiary shall be deemed to be the assets of the parent corporation for the purposes of this section.

SECTION 132. That Section 30-29-1301, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1301. DEFINITIONS. In this part:

(1) "Affiliate" means a person that directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof of such person. For purposes of section 30-29-1302 (2b) (d4), Idaho Code, a person is deemed to be an affiliate of its senior executives.

(2) "Beneficial shareholder owner" means a person who ~~is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf,~~ directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or priv-

ileges of the holders of the securities to be voted. When two (2) or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all shares having voting power of the corporation beneficially owned by any member of the group.

(3) "Corporation" means the domestic corporation that is the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in sections 30-29-1322 through 30-29-1331, Idaho Code, includes the surviving entity in survivor of a merger.

(4) "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one (1) year before the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

(5) "Fair value" means the value of the corporation's shares determined:

(a) Immediately before the effectuation effectiveness of the corporate action to which the shareholder objects;

(b) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(c) Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles of incorporation pursuant to section 30-29-1302(1a)(e5), Idaho Code.

(56) "Interest" means interest from the effective date ~~of~~ the corporate action becomes effective until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.

(7) "Interested person" means a person, or an affiliate of a person, who at any time during the one (1) year period immediately preceding approval by the board of directors of the corporate action:

(a) Was the beneficial owner of twenty percent (20%) or more of the voting power of the corporation, other than as owner of excluded shares;

(b) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of twenty-five percent (25%) or more of the directors to the board of directors of the corporation; or

(c) Was a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(i) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;

(ii) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 30-29-862, Idaho Code; or

(iii) In the case of a director of the corporation who will, in the corporate action, become a director or governor of the acquiror or any of its affiliates, rights and benefits as a director or governor that are provided on the same basis as those afforded by the acquiror generally to other directors or governors of such entity or such affiliate.

(8) "Interested transaction" means a corporate action described in section 30-29-1302(a), Idaho Code, other than a merger pursuant to section 30-29-1105, Idaho Code, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted.

(69) "Preferred shares" means a class or series of shares whose holders have preference over any other class or series of shares with respect to distributions.

~~(7) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.~~

(810) "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone any individual in charge of a principal business unit or function.

(911) "Shareholder" means both a record shareholder and, a beneficial shareholder, and a voting trust beneficial owner.

SECTION 133. That Section 30-29-1302, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1302. RIGHT TO APPRAISAL. (1a) A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares in the event of any of the following corporate actions:

(a1) Consummation of a merger to which the corporation is a party:

(i) If shareholder approval is required for the merger by section 30-29-1104, Idaho Code, and or would be required but for the shareholder is entitled to vote on the merger provisions of section 30-29-1104(j), Idaho Code, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(ii) If the corporation is a subsidiary and the merger is governed by section 30-29-1105, Idaho Code;

(b2) Consummation of a share exchange to which the corporation is a party as the corporation whose shares of which will be acquired, ~~if the shareholder is entitled to vote on the exchange,~~ except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged acquired in the share exchange;

(e3) Consummation of a disposition of assets pursuant to section 30-29-1202, Idaho Code, if the shareholder is entitled to vote on the disposition, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series if:

(i) Under the terms of the corporate action approved by the shareholders, there is to be distributed to shareholders in cash the corporation's net assets, in excess of a reasonable amount reserved to meet claims of the type described in sections 30-29-1406 and 30-29-1407, Idaho Code, within one (1) year after the shareholders' approval of the action and in accordance with their respective interests determined at the time of distribution; and

(ii) The disposition of assets is not an interested transaction;

(d4) An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created; or

~~(e5) Any other amendment to the articles of incorporation, merger, share exchange or, disposition of assets, or amendment to the articles of incorporation, in each case to the extent provided by the articles of incorporation, bylaws or a resolution of the board of directors;~~

(6) Consummation of a domestication pursuant to part 9 of this chapter if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the foreign corporation, as the shares held by the shareholder before the domestication;

(7) Consummation of a conversion of the corporation to a nonprofit corporation pursuant to chapter 22, title 30, Idaho Code; or

(8) Consummation of a conversion of the corporation to an unincorporated entity pursuant to chapter 22, title 30, Idaho Code.

(2b) Notwithstanding subsection (1a) of this section, the availability of appraisal rights under subsection ~~(1) (a), (b), (c1) and (d2)~~ of this section shall be limited in accordance with the following provisions:

(a1) Appraisal rights shall not be available for the holders of shares of any class or series of shares that are:

~~(i) Listed on the New York stock exchange or the American stock exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, inc. A covered security under section 18 (b) (1) (A) or (B) of the securities act of 1933; or~~

(ii) Not so listed or designated, but Traded in an organized market and have at least two thousand (2,000) shareholders and the outstanding shares of such class or series have a market value of at least twenty million dollars (\$20,000,000), exclusive of the value of such shares held by its the corporation's subsidiaries, senior executives, and directors and by any beneficial shareholders and any voting trust beneficial owner owning more than ten percent (10%) of such shares; or

(iii) Issued by an open end management investment company registered with the securities and exchange commission under the investment company act of 1940 and which may be redeemed at the option of the holder at net asset value.

(b2) The applicability of paragraph (a1) of this subsection shall be determined as of:

~~(i) The record date fixed to determine the shareholders entitled to receive notice of, and vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights or, in the case of an offer made pursuant to section 30-29-1104 (j), Idaho Code, the date of such offer; or~~

~~(ii) The day before the effective date of such corporate action~~
if there is no meeting of shareholders and no offer made pursuant to section 30-29-1104 (j), Idaho Code, the day before the consummation of the corporate action or effective date of the amendment of the articles of incorporation, as applicable.

(e3) Paragraph (a1) of this subsection shall not be applicable and appraisal rights shall be available pursuant to subsection (1a) of this section for the holders of any class or series of shares:

(i) who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph (a1) of this subsection at the time the corporate action becomes effective; or

(ii) In the case of the consummation of a disposition of assets pursuant to section 30-29-1202, Idaho Code, unless the cash, shares, or proprietary interests received in the disposition are, under the terms of the corporate action approved by the shareholders, to be distributed to the shareholders, as part of a distribution to shareholders of the net assets of the corporation in excess of a reasonable amount to meet claims of the type described in sections 30-29-1406 and 30-29-1407, Idaho Code, within one (1) year after the shareholders' approval of the action, and in accordance with their respective interests determined at the time of the distribution.

(d4) Paragraph (a1) of this subsection shall not be applicable and appraisal rights shall be available pursuant to subsection (1a) of this section for the holders of any class or series of shares where: the corporate action is an interested transaction.

~~(i) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to the corporate action by a person, or by an affiliate of a person, who:~~

~~(A) Is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, the beneficial owner of twenty percent (20%) or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares having voting power if such offer was made within one (1) year prior to the corporate action requiring appraisal rights for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action; or~~

~~(B) Directly or indirectly has, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporation of the corporate action requiring appraisal rights had, the power, contractually or otherwise, to cause the appointment or election of twenty-five percent (25%) or more of the directors to the board of directors of the corporation; or~~

~~(ii) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to such corporate action by a person, or by an affiliate of a person, who is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:~~

~~(A) Employment, consulting, retirement or similar benefits established separately and not as part of or in contemplation of the corporate action; or~~

~~(B) Employment, consulting, retirement or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 30-29-862, Idaho Code; or~~

~~(C) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one (1) of its affiliates, rights and benefits as a director that are provided on the~~

~~same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.~~

~~(e) For the purposes of paragraph (d) of this subsection only, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares, provided that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two (2) or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of the corporation beneficially owned by any member of the group.~~

(3c) Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment thereto to the articles of incorporation may limit or eliminate appraisal rights for any class or series of preferred shares, but except that no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group, alone or as part of a group, on the action or if the action is a conversion under chapter 22, title 30, Idaho Code, or a merger having a similar effect as a conversion in which the converted entity is an eligible entity; and any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to before the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one (1) year of that after the effective date of such amendment if such action would otherwise afford appraisal rights.

~~(4) A shareholder entitled to appraisal rights under this part may not challenge a completed corporate action for which appraisal rights are available unless such corporate action:~~

- ~~(a) Was not effectuated in accordance with the applicable provisions of part 10, 11 or 12 of this chapter or the corporation's articles of incorporation, bylaws or board of directors' resolution authorizing the corporate action; or~~
- ~~(b) Was procured as a result of fraud or material misrepresentation.~~

SECTION 134. That Section 30-29-1303, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1303. ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS SHAREHOLDERS. (1a) A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder or a voting trust beneficial owner only if the record shareholder objects with respect to all shares of the a class or series owned by the beneficial shareholder or the voting trust beneficial owner and notifies the corporation in writing of the name and address of each beneficial shareholder or voting trust beneficial owner on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record

shareholder's other shares were registered in the names of different record shareholders.

(2b) A beneficial shareholder and a voting trust beneficial owner may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder:

(a1) Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in section 30-29-1322 (2b) (b2) (ii), Idaho Code; and

(b2) Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder or the voting trust beneficial owner.

SECTION 135. That Section 30-29-1320, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1320. NOTICE OF APPRAISAL RIGHTS. (1a) ~~If proposed~~ Where any corporate action described specified in section 30-29-1302(1a), Idaho Code, is to be submitted to a vote at a shareholders' meeting, the meeting notice, or where no approval of such action is required pursuant to section 30-29-1104(j), Idaho Code, the offer made pursuant to section 30-29-1104(j), Idaho Code, must state that the corporation has concluded that shareholders appraisal rights are, are not, or may be entitled to assert appraisal rights available under this part. If the corporation concludes that appraisal rights are or may be available, a copy of this part must accompany the meeting notice or offer sent to those record shareholders entitled to exercise appraisal rights.

(2b) ~~In a merger pursuant to section 30-29-1105, Idaho Code, the parent corporation must~~ entity shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. Such notice ~~must~~ shall be sent within ten (10) days after the corporate action became effective and include the materials described in section 30-29-1322, Idaho Code.

(c) Where any corporate action specified in section 30-29-1302(a), Idaho Code, is to be approved by written consent of the shareholders pursuant to section 30-29-704, Idaho Code:

(1) Written notice that appraisal rights are, are not, or may be available shall be sent to each record shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, the notice must be accompanied by a copy of this chapter; and

(2) Written notice that appraisal rights are, are not, or may be available must be delivered together with the notice to nonconsenting and nonvoting shareholders required by section 30-29-704(e) and (f), Idaho Code, may include the materials described in section 30-29-1322, Idaho Code, and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this chapter.

(d) Where corporate action described in section 30-29-1302(a), Idaho Code, is proposed, or a merger pursuant to section 30-29-1105, Idaho Code, is effected, the notice referred to in subsection (a) or (c) of this section, if the corporation concludes that appraisal rights are or may be available, and in subsection (b) of this section must be accompanied by:

(1) Financial statements of the corporation that issued the shares that may be subject to appraisal, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of the notice, an income statement for that year, and a cash flow statement for that year; provided that, if such financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information; and

(2) The latest interim financial statements of such corporation, if any.

(e) The right to receive the information described in subsection (d) of this section may be waived in writing by a shareholder before or after the corporate action.

SECTION 136. That Section 30-29-1321, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1321. NOTICE OF INTENT TO DEMAND PAYMENT -- CONSEQUENCES OF VOTING OR CONSENTING. (1a) If proposed a corporate action requiring appraisal rights under specified in section 30-29-1302(a), Idaho Code, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

(a1) Must Shall deliver to the corporation, before the vote is taken, written notice of the shareholder's intent to demand payment if the proposed action is effectuated; and

(b2) Must Shall not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(b) If a corporate action specified in section 30-29-1302(a), Idaho Code, is to be approved by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares shall not sign a consent in favor of the proposed action with respect to that class or series of shares.

(c) If a corporate action specified in section 30-29-1302(a), Idaho Code, does not require shareholder approval pursuant to section 30-29-1104(j), Idaho Code, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares shall deliver to the corporation before the shares are purchased pursuant to the offer written notice of the shareholder's intent to demand payment if the proposed action is effected; and shall not tender, or cause or permit to be tendered, any shares of such class or series in response to such offer.

(2d) A shareholder who does not fails to satisfy the requirements of subsection (1a), (b), or (c) of this section is not entitled to payment under this part.

SECTION 137. That Section 30-29-1322, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1322. APPRAISAL NOTICE AND FORM. (1a) If proposed a corporate action requiring appraisal rights under section 30-29-1302(a), Idaho Code, becomes effective, the corporation must shall deliver a written appraisal notice and form required by subsection (2b) (a) of this section to all shareholders who satisfied satisfy the requirements of section 30-29-1321(a), (b), or (c), Idaho Code. In the case of a merger under section 30-29-1105, Idaho Code, the parent must shall deliver a written an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

(2b) The appraisal notice must shall be sent delivered no earlier than the date the corporate action specified in section 30-29-1302(a), Idaho Code, became effective, and no later than ten (10) days after such date and must:

(a1) Supply a form that:

(i) Specifies the first date of the first any announcement to shareholders made before the date the corporate action became effective of the principal terms of the proposed corporate action and requires the shareholder asserting appraisal rights to certify;

(ii) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether or not beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date; and

(iii) That the shareholder did not vote for the transaction Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction as to the class or series of shares for which appraisal is sought;

(b2) State:

(i) Where the form ~~must~~ shall be sent and where certificates for certificated shares must be deposited and the date by which those certificates ~~must~~ shall be deposited, which date may not be earlier than the date ~~for receiving the~~ by which the corporation must receive the required form under ~~subsection (2) (b) (ii) of this section~~ subparagraph (ii) of this paragraph;

(ii) A date by which the corporation ~~must~~ shall receive the form, which date may not be fewer than forty (40) days nor more than sixty (60) days after the date the appraisal notice and form in subsection (1a) of this section are is sent, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

(iii) The corporation's estimate of the fair value of the shares;

(iv) That, if requested in writing, the corporation will provide, to the shareholders so requesting, within ten (10) days after the date specified in subparagraph (ii) of this paragraph the number of shareholders who return the forms by the specified date and the total number of shares owned by them; and

(v) The date by which the notice to withdraw under section 30-29-1323, Idaho Code, ~~must~~ shall be received, which date ~~must~~ shall be within twenty (20) days after the date specified in subparagraph (ii) of this paragraph; and

(e3) Be accompanied by a copy of this part.

SECTION 138. That Section 30-29-1323, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1323. PERFECTION OF RIGHTS -- RIGHT TO WITHDRAW. (1a) A shareholder who receives notice pursuant to section 30-29-1322, Idaho Code, and who wishes to exercise appraisal rights ~~must certify on~~ shall sign and return the form sent by the corporation ~~whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to section 30-29-1322(2) (a), Idaho Code. If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 30-29-1325, Idaho Code. In addition, a shareholder who wishes to exercise appraisal rights must execute and return the form and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 30-29-1322(2b) (b2) (ii), Idaho Code. In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to section 30-29-1322(b) (2) (ii), Idaho Code. If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 30-29-1325, Idaho Code. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the executed signed forms, that shareholder~~

loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection (2b) of this section.

(2b) A shareholder who has complied with subsection (1a) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to section 30-29-1322(2b)(b2)(v), Idaho Code. A shareholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the corporation's written consent.

(3c) A shareholder who does not execute sign and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in section 30-29-1322(2b), Idaho Code, shall not be entitled to payment under this part.

SECTION 139. That Section 30-29-1324, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1324. PAYMENT. (1a) Except as provided in section 30-29-1325, Idaho Code, within thirty (30) days after the form required by section 30-29-1322(2b)(b2)(ii), Idaho Code, is due, the corporation shall pay in cash to those shareholders who complied with section 30-29-1323(1a), Idaho Code, the amount the corporation estimates to be the fair value of their shares, plus interest.

(2b) The payment to each shareholder pursuant to subsection (1a) of this section must be accompanied by:

(a1) Financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a cash flow statement of changes in shareholders' equity for that year, and the latest available interim financial statements of such corporation, if any; provided however, that if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information;

(b2) A statement of the corporation's estimate of the fair value of the shares, which estimate ~~must~~ shall equal or exceed the corporation's estimate given pursuant to section 30-29-1322(2b)(b2)(iii), Idaho Code; and

(e3) A statement that shareholders described in subsection (1a) of this section have the right to demand further payment under section 30-29-1326, Idaho Code, and that if any such shareholder does not do so within the time period specified ~~therein~~ in section 30-29-1326(b), Idaho Code, such shareholder shall be deemed to have accepted such the payment under subsection (a) of this section in full satisfaction of the corporation's obligations under this part.

SECTION 140. That Section 30-29-1325, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1325. AFTER ACQUIRED SHARES. (1a) A corporation may elect to withhold payment required by section 30-29-1324, Idaho Code, from any shareholder who was required to but did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to section 30-29-1322(2b)(a1), Idaho Code.

(2b) If the corporation elected to withhold payment under subsection (1a) of this section, it ~~must~~ shall, within thirty (30) days after the form required by section 30-29-1322 (2b) (b2) (ii), Idaho Code, is due, notify all shareholders who are described in subsection (1a) of this section:

(a1) Of the information required by section 30-29-1324 (2b) (a1), Idaho Code;

(b2) Of the corporation's estimate of fair value pursuant to section 30-29-1324 (2b) (b2), Idaho Code;

(e3) That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 30-29-1326, Idaho Code;

(d4) That those shareholders who wish to accept such offer ~~must~~ shall so notify the corporation of their acceptance of the corporation's offer within thirty (30) days after receiving the offer; and

(e5) That those shareholders who do not satisfy the requirements for demanding appraisal under section 30-29-1326, Idaho Code, shall be deemed to have accepted the corporation's offer.

(3c) Within ten (10) days after receiving the shareholder's acceptance pursuant to subsection (2b) (4) of this section, the corporation ~~must~~ shall pay in cash the amount it offered under subsection (2b) (b2) of this section plus interest to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

(4d) Within forty (40) days after ~~sending~~ delivering the notice described in subsection (2b) of this section, the corporation ~~must~~ shall pay in cash the amount it offered to pay under subsection (2b) (b2) of this section plus interest to each shareholder described in subsection (2b) (e5) of this section.

SECTION 141. That Section 30-29-1326, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1326. PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OFFER. (1a) A shareholder paid pursuant to section 30-29-1324, Idaho Code, who is dissatisfied with the amount of the payment ~~must~~ shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate ~~plus interest~~, less any payment under section 30-29-1324, Idaho Code, plus interest. A shareholder offered payment under section 30-29-1325, Idaho Code, who is dissatisfied with that offer ~~must~~ shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

(2b) A shareholder who fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection (1a) of this section within thirty (30) days after receiving the corporation's payment or offer of payment under section 30-29-1324 or 30-29-1325, Idaho Code, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

SECTION 142. That Section 30-29-1330, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1330. COURT ACTION. (1a) If a shareholder makes demand for payment under section 30-29-1326, Idaho Code, that remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty (60) day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to section 30-29-1326, Idaho Code, plus interest.

(2b) The corporation shall commence the proceeding in the appropriate court of the county where the corporation's principal office is located, or, if none in this state, Ada county. If the corporation is a foreign corporation, it shall commence the proceeding in the county in this state where the principal office of the domestic corporation merged with the foreign corporation was located or, if the domestic corporation did not have its principal office in this state at the time of the transaction, in Ada county.

(3c) The corporation shall make all shareholders, regardless of whether or not they are residents of this state, whose demands remain unsettled parties to the proceeding, as in an action against their shares, and all parties ~~must~~ shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4d) The jurisdiction of the court in which the proceeding is commenced under subsection (2b) of this section is plenary and exclusive. The court may appoint one (1) or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(5e) Each shareholder made a party to the proceeding is entitled to judgment:

(a1) For the amount, if any, by which the court finds the fair value of the shareholder's shares, ~~plus interest,~~ exceeds the amount paid by the corporation to the shareholder for such shares, plus interest; or

(b2) For the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under section 30-29-1325, Idaho Code.

SECTION 143. That Section 30-29-1331, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1331. COURT COSTS AND COUNSEL FEES EXPENSES. (1a) The court in an appraisal proceeding commenced under section 30-29-1330, Idaho Code, shall determine all court costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the court costs against the corporation, except that the court may assess court costs against all or some of the shareholders demanding appraisal, in amounts that the court finds equitable, to the extent the court finds such shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this part.

(2b) The court in an appraisal proceeding may also assess the ~~fees and expenses of counsel and experts for~~ the respective parties, in amounts the court finds equitable:

(a1) Against the corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of section 30-29-1320, 30-29-1322, 30-29-1324 or 30-29-1325, Idaho Code; or

(b2) Against either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the ~~fees and expenses~~ are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this part.

(3c) If the court in an appraisal proceeding finds that the ~~services of counsel for~~ expenses incurred by any shareholder were of substantial benefit to other shareholders similarly situated, and that the ~~fees for those services~~ such expenses should not be assessed against the corporation, the court may ~~award to direct that such counsel reasonable fees to~~ expenses be paid out of the amounts awarded to the shareholders who were benefited.

(4d) To the extent the corporation fails to make a required payment pursuant to section 30-29-1324, 30-29-1325 or 30-29-1326, Idaho Code, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including counsel fees.

SECTION 144. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-1340, Idaho Code, and to read as follows:

30-29-1340. OTHER REMEDIES LIMITED. (a) The legality of a proposed or completed corporate action described in section 30-29-1302(a), Idaho Code, may not be contested, nor may the corporate action be enjoined, set aside, or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

(b) Subsection (a) of this section does not apply to a corporate action that:

(1) Was not authorized and approved in accordance with the applicable provisions of:

- (i) Part 9, 10, 11, or 12 of this chapter;
- (ii) The articles of incorporation or bylaws; or
- (iii) The resolution of the board of directors authorizing the corporate action;

(2) Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading;

(3) Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in section 30-29-862, Idaho Code, and has been approved by the shareholders in the same manner as is provided in section 30-29-863, Idaho Code, as if the interested transaction were a director's conflicting interest transaction; or

(4) Is approved by less than unanimous consent of the voting shareholders pursuant to section 30-29-704, Idaho Code, if:

- (i) The challenge to the corporate action is brought by a shareholder who did not consent and as to whom notice of the approval of the corporate action was not effective at least ten (10) days before the corporate action was effected; and
- (ii) The proceeding challenging the corporate action is commenced within ten (10) days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

SECTION 145. That Section 30-29-1401, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1401. DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS. A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth:

- (1a) The name of the corporation;
- (2b) The date of its incorporation;
- (3c) Either:
 - (a1) That none of the corporation's shares has been issued; or
 - (b2) That the corporation has not commenced business;
- (4d) That no debt of the corporation remains unpaid;
- (5e) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and

(6f) That a majority of the incorporators or initial directors authorized the dissolution.

SECTION 146. That Section 30-29-1402, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1402. DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS. (1a) ~~A corporation's~~ The board of directors may propose dissolution for submission to the shareholders by first adopting a resolution authorizing the dissolution.

(2b) For a proposal to dissolve to be adopted, the proposal to dissolve shall then be approved by the shareholders. In submitting the proposal to dissolve to the shareholders for approval, the board of directors shall recommend that the shareholders approve the dissolution, unless either the board of directors determines that because of conflicts of interest or other special circumstances it should make no recommendation or section 30-29-826, Idaho Code, applies. In either case, the board shall inform the shareholders of the basis for its so proceeding.

~~(a) The board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflicts of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and~~

~~(b) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (5) of this section.~~

(3c) The board of directors may set conditions its submission for the approval of the proposal for dissolution on any basis by shareholders or the effectiveness of the dissolution.

(4d) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether or not entitled to vote, of the proposed shareholders' meeting of shareholders at which the dissolution is to be submitted for approval. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider dissolving the corporation.

(5e) Unless the articles of incorporation or the board of directors, acting pursuant to subsection (3c) of this section, require a greater vote, a greater number of shares to be present quorum, or a vote by voting groups, adoption of the proposal to dissolve shall require the approval of the shareholders at a meeting at which a quorum exists consisting of at least a majority of the votes entitled to be cast exists on the proposal to dissolve.

SECTION 147. That Section 30-29-1403, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1403. ARTICLES OF DISSOLUTION. (1a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

(a1) The name of the corporation;

(b2) The date that dissolution was authorized; and

(e3) If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(2b) The articles of dissolution shall take effect at the effective date determined in accordance with section 30-29-123, Idaho Code. A corporation is dissolved upon the effective date of its articles of dissolution.

(3c) For purposes of this part sections 30-29-1401 through 30-29-1409, Idaho Code, "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which

the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

SECTION 148. That Section 30-29-1404, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1404. REVOCATION OF DISSOLUTION. (1a) A corporation may revoke its dissolution within one hundred twenty (120) days ~~of~~ after its effective date.

(2b) Revocation of dissolution ~~must~~ shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(3c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a1) The name of the corporation;

(b2) The effective date of the dissolution that was revoked;

(e3) The date that the revocation of dissolution was authorized;

(d4) If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect;

(e5) If the corporation's board of directors revoked a dissolution as authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f6) If shareholder action was required to revoke the dissolution, ~~the information a statement that the revocation was duly approved by the shareholders in the manner required by section 30-29-1403(1)(e), Idaho Code this chapter and by the articles of incorporation.~~

(d) The articles of revocation of dissolution shall take effect at the effective date determined in accordance with section 30-29-123, Idaho Code.

(4e) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(5f) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

SECTION 149. That Section 30-29-1405, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1405. EFFECT OF DISSOLUTION. (1a) A dissolved corporation that has dissolved continues its corporate existence, but the dissolved corporation may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a1) Collecting its assets;

(b2) Disposing of its properties that will not be distributed in kind to its shareholders;

(e3) Discharging or making provision for discharging its liabilities;

(d4) ~~Distributing~~ Making distributions of its remaining property assets among its shareholders according to their interests; and

(e5) Doing every other act necessary to wind up and liquidate its business and affairs.

(2b) Dissolution of a corporation does not:

(a1) Transfer title to the corporation's property;

(b2) Prevent transfer of its shares or securities, ~~although the authorization to dissolve may provide for closing the corporation's share transfer records;~~

(e3) Subject its directors or officers to standards of conduct different from those prescribed in part 8 of this chapter;

(d4) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;

(e5) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(f6) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(g7) Terminate the authority of the registered agent of the corporation.

(c) A distribution in liquidation under this section may only be made by a dissolved corporation. For purposes of determining the shareholders entitled to receive a distribution in liquidation, the board of directors may fix a record date for determining shareholders entitled to a distribution in liquidation, which date may not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution in liquidation, the record date is the date the board of directors authorizes the distribution in liquidation.

SECTION 150. That Section 30-29-1406, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1406. KNOWN CLAIMS AGAINST DISSOLVED CORPORATION. (1a) A dissolved corporation may dispose of the known claims against it by notifying its known claimants in writing of the dissolution at any time after its effective date.

(2b) The written notice must:

(a1) Describe information that must be included in a claim;

(b2) Provide a mailing address where a claim may be sent;

(e3) State the deadline, which may not be fewer than one hundred twenty (120) days ~~from the effective date of~~ after the written notice is effective, by which the dissolved corporation ~~must~~ shall receive the claim; and

(d4) State that the claim will be barred if not received by the deadline.

(3c) A claim against the dissolved corporation is barred:

(a1) If a claimant who was given written notice under subsection (2b) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(b2) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days ~~from the effective date of~~ after the rejection notice is effective.

(4d) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SECTION 151. That Section 30-29-1407, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1407. OTHER CLAIMS AGAINST DISSOLVED CORPORATION. (1a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(2b) The notice must:

(a1) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was located or, if none in this state, in Ada county, or be posted conspicuously for at least thirty (30) days on the dissolved corporation's website;

(b2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(e3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of the notice.

(3c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2b) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within ~~two~~ three (23) years after the publication date of the newspaper notice:

(a1) A claimant who was not given written notice under section 30-29-1406, Idaho Code;

(b2) A claimant whose claim was timely sent to the dissolved corporation but not acted on by the corporation; and

(e3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4d) A claim that is not barred by section 30-29-1406(3c), Idaho Code, or subsection (3c) of this section may be enforced:

(a1) Against the dissolved corporation, to the extent of its undistributed assets; or

(b2) Except as provided in section 30-29-1408(4d), Idaho Code, if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to the shareholder.

SECTION 152. That Section 30-29-1408, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1408. COURT PROCEEDINGS. (1a) A dissolved corporation that has published a notice under section 30-29-1407, Idaho Code, may file an application with the district court of the county where the dissolved corporation's principal office is located, or, if none in this state, Ada county, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 30-29-1407(3c), Idaho Code.

(2b) Within ten (10) days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(3c) The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(4d) Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection (1a) of this section shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are

based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a shareholder who received assets in liquidation.

SECTION 153. That Section 30-29-1409, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1409. DIRECTOR DUTIES. (1a) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions in liquidation of assets to shareholders after payment or provision for claims.

(2b) Directors of a dissolved corporation that has been disposed of claims under section 30-29-1406, 30-29-1407, or 30-29-1408, Idaho Code, shall not be liable for breach of subsection (1a) of this section, with respect to claims against the dissolved corporation that are barred or satisfied under section 30-29-1406, 30-29-1407, or 30-29-1408, Idaho Code.

SECTION 154. That Section 30-29-1430, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1430. GROUNDS FOR JUDICIAL DISSOLUTION. (a) The Idaho district court designated in section 30-29-1431(1a), Idaho Code, may dissolve a corporation:

- (1) In a proceeding by the attorney general if it is established that:
 - (ai) The corporation obtained its articles of incorporation through fraud; or
 - (bii) The corporation has continued to exceed or abuse the authority conferred upon it by law;
- (2) In a proceeding by a shareholder if it is established that:
 - (ai) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;
 - (bii) The directors or those in control of the corporation have acted ~~or~~, are acting, or will act in a manner that is illegal, oppressive, or fraudulent, ~~and irreparable injury to the corporation is threatened or being suffered by reason thereof;~~ or
 - (eiii) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates to elect successors to directors whose terms have expired; or
 - (iv) The corporate assets are being misapplied or wasted;
- (3) In a proceeding by a creditor if it is established that:
 - (ai) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or
 - (bii) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; ~~or~~
- (4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision; or
- (5) In a proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and dissolve.

(b) The provisions of subsection (a) (2) of this section shall not apply in the case of a corporation that, on the date of the filing of the proceeding, has a class or series of shares that is:

(1) A covered security under section 18(b) (1) (A) or (B) of the securities act of 1933; or

(2) Not a covered security, but is held by at least three hundred (300) shareholders and the shares outstanding have a market value of at least twenty million dollars (\$20,000,000), exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders and voting trust beneficial owners owning more than ten percent (10%) of such shares.

(c) As used in subsection (a) of this section, "shareholder" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner; and in subsection (b) of this section, "shareholder" means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner.

SECTION 155. That Section 30-29-1431, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1431. PROCEDURE FOR JUDICIAL DISSOLUTION. (1a) Venue for a proceeding by the attorney general to dissolve a corporation lies in Ada county. Venue for a proceeding brought by any other party named in section 30-29-1430(a), Idaho Code, lies in the county where a corporation's principal office is or was located or, if none in this state, in Ada county.

(2b) It is not necessary to make shareholders parties to the a proceeding to dissolve a corporation unless relief is sought against them individually.

(3c) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite during the proceeding with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(4d) Within ten (10) days of the commencement of a proceeding to dissolve a corporation under section 30-29-1430(a) (2), Idaho Code, ~~to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association,~~ the corporation must send shall deliver to all shareholders, other than the petitioner, a notice stating that the shareholders ~~may be~~ are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under section 30-29-1434, Idaho Code, and accompanied by a copy of section 30-29-1434, Idaho Code.

SECTION 156. That Section 30-29-1432, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1432. RECEIVERSHIP OR CUSTODIANSHIP. (1a) Unless an election to purchase has been filed under section 30-29-1434, Idaho Code, a court in a judicial proceeding brought to dissolve a corporation may appoint one (1) or more receivers to wind up and liquidate, or one (1) or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property, wherever located.

(2b) The court may appoint an individual or a domestic or foreign corporation, ~~authorized to transact business in this state,~~ or eligible entity as a receiver or custodian, which, if a foreign corporation or foreign eligible entity, must be registered to do business in this state. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3c) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a1) The receiver:

(i) May dispose of all or any part of the assets of the corporation, wherever located, at a public or private sale, ~~if authorized by the court~~; and

(ii) May sue and defend in his the receiver's own name as receiver of the corporation in all courts of this state;

(b2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.;

The receiver or custodian shall have such other powers and duties as the court may provide in the appointing order, which may be amended from time to time.

(4d) The court during a receivership, may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, ~~if doing so is in the best interests of the corporation, its shareholders, and creditors.~~

(5e) The court from time to time during the receivership or custodianship may order compensation paid and expenses ~~disbursements or reimbursements made paid or reimbursed~~ to the receiver or custodian and his counsel from the assets of the corporation or proceeds from the sale of the assets.

SECTION 157. That Section 30-29-1433, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1433. DECREE OF DISSOLUTION. (1a) If after a hearing the court determines that one (1) or more grounds for judicial dissolution described in section 30-29-1430, Idaho Code, exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, ~~who shall file it for filing.~~

(2b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with section 30-29-1405, Idaho Code, and the notification of claimants in accordance with sections 30-29-1406 and 30-29-1407, Idaho Code.

SECTION 158. That Section 30-29-1434, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1434. ELECTION TO PURCHASE IN LIEU OF DISSOLUTION. (1a) In a proceeding under section 30-29-1430(a)(2), Idaho Code, to dissolve a corporation ~~that has no shares listed on a national securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association~~, the corporation may elect or, if it fails to elect, one (1) or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. ~~In a proceeding under section 30-29-1430(2), Idaho Code, to dissolve a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one (1) or more members of a national or affiliated securities association, the corporation may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares.~~ An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2b) An election to purchase pursuant to this section may be filed with the court at any time within ninety (90) days after the filing of the petition under section 30-29-1430(a)(2), Idaho Code, or at such later time as the court in its discretion may allow. If the election to purchase is filed by one (1) or more shareholders, the corporation shall, within ten (10) days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate ~~must~~ shall file notice of their intention to join in the purchase no later than thirty (30) days after the ~~effective date~~ effectiveness of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one (1) or more shareholders, the proceeding under section 30-29-1430(a)(2), Idaho Code, may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of his or her shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

(3c) If, within sixty (60) days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of the petitioner's shares upon the terms and conditions agreed to by the parties.

(4d) If the parties are unable to reach an agreement as provided for in subsection (3c) of this section, the court, upon application of any party, shall stay the proceedings under section 30-29-1430(a)(2), Idaho Code, ~~proceedings~~ and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 30-29-1430(a)(2), Idaho Code, was filed or as of such other date as the court deems appropriate under the circumstances.

(5e) Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional ~~costs, fees, and expenses~~ as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating the petitioner's shares among holders of different classes or series of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes or series insofar as practicable and may direct that holders of a specific class or classes or series shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under section 30-29-1430(2a)(b2)(ii) or (iv), Idaho Code, it may award expenses to the petitioning shareholder ~~reasonable fees and expenses of counsel and of any experts employed by him.~~

(6f) Upon entry of an order under subsection (3c) or (5e) of this section, the court shall dismiss the petition to dissolve the corporation under section 30-29-1430(a)(2), Idaho Code, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, ex-

cept the right to receive the amounts awarded to him by the order of the court that shall be enforceable in the same manner as any other judgment.

(7g) ~~The purchase ordered pursuant to subsection (5e) of this section shall be made within ten (10) days after the date the order becomes final unless before that time the corporation files with the court a notice of its intention to adopt articles of dissolution pursuant to sections 30-29-1402 and 30-29-1403, Idaho Code, which articles must then be adopted and filed within fifty (50) days thereafter. Upon filing of such articles of dissolution, the corporation shall be dissolved in accordance with the provisions of sections 30-29-1405 through 30-29-1407, Idaho Code, and the order entered pursuant to subsection (5) of this section shall no longer be of any force or effect, except that the court may award the petitioning shareholder reasonable fees and expenses in accordance with the provisions of the last sentence of subsection (5) of this section and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.~~

(8h) Any payment by the corporation pursuant to an order under subsection (3c) or (5e) of this section, other than an award of fees and expenses pursuant to subsection (5e) of this section, is subject to the provisions of section 30-29-640, Idaho Code.

SECTION 159. That Section 30-29-1601, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1601. CORPORATE RECORDS. ~~(1a) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation maintain the following records:~~

(1) Its articles of incorporation as currently in effect;

(2) Any notices to shareholders referred to in section 30-29-120(d)(5), Idaho Code, specifying facts on which a filed document is dependent if those facts are not included in the articles of incorporation or otherwise available as specified in section 30-29-120(d)(5), Idaho Code;

(3) Its bylaws currently in effect;

(4) All written communications within the past three (3) years to shareholders generally;

(5) Minutes of all meetings of, and records of all actions taken without a meeting by, its shareholders, its board of directors, and board committees established under section 30-29-825, Idaho Code;

(6) A list of the names and business addresses of its current directors and officers; and

(7) Its most recent annual report delivered to the secretary of state pursuant to section 30-21-213, Idaho Code.

(b) A corporation shall maintain all annual financial statements prepared for the corporation for its last three (3) fiscal years, or such shorter period of existence, and any audit or other reports with respect to such financial statements.

(2c) A corporation shall maintain appropriate accounting records in a form that permits preparation of its financial statements.

(3d) A corporation or its agent shall maintain a record of its current shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class or series of shares showing the number and class or series of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include in such record the electronic mail address or other electronic contact information of a shareholder.

~~(4e) A corporation shall maintain its the records specified in this section in written form or in another form capable of conversion into written form a manner so that they may be made available for inspection within a reasonable time.~~

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

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

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

~~(c) Resolutions adopted by its board of directors creating one (1) or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;~~

~~(d) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three (3) years;~~

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

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

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

SECTION 160. That Section 30-29-1602, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1602. INSPECTION RIGHTS OF RECORDS BY SHAREHOLDERS. (1a) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 30-29-1601(5a), Idaho Code, excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation's board of directors and board committees established under section 30-29-825, Idaho Code, if he the shareholder gives the corporation a signed written notice of his the shareholder's demand at least five (5) business days before the date on which he the shareholder wishes to inspect and copy.

(2b) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (3c) of this section and gives the corporation a signed written notice of his the shareholder's demand at least five (5) days before the date on which he the shareholder wishes to inspect and copy:

(1) The financial statements of the corporation maintained in accordance with section 30-29-1601(b), Idaho Code;

(2) Accounting records of the corporation;

(a3) Excerpts from minutes of any meeting of, or records of any actions taken without a meeting by the corporation's board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under and board committees maintained in accordance with section 30-29-1602(1a), Idaho Code; and

~~(b) Accounting records of the corporation; and~~

~~(e4) The record of shareholders maintained in accordance with section 30-29-1601(d), Idaho Code.~~

~~(3c) A shareholder may inspect and copy the records described in subsection (2b) of this section only if:~~

~~(a) He has been a holder of record of shares or of voting trust certificates for at least six (6) months immediately preceding his demand or shall be the holder of record of, or the holder of record of voting trust certificates for, at least five percent (5%) of all the outstanding shares of the corporation;~~

~~(b1) His The shareholder's demand is made in good faith and for a proper purpose;~~

~~(e2) He The shareholder's demand describes with reasonable particularity his the shareholder's purpose and the records he the shareholder desires to inspect; and~~

~~(d3) The records are directly connected with his the shareholder's purpose.~~

~~(d) The corporation may impose reasonable restrictions on the confidentiality, use, or distribution of records described in subsection (b) of this section.~~

~~(e) For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.~~

~~(4f) The right of inspection granted by this section may not be abolished or limited by a corporation's articles of incorporation or bylaws.~~

~~(5g) This section does not affect:~~

~~(a1) The right of a shareholder to inspect records under section 30-29-720, Idaho Code, or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or~~

~~(b2) The power of a court, independently of this chapter, to compel the production of corporate records for examination and to impose reasonable restrictions as provided in section 30-29-1604(c), Idaho Code, provided that, in the case of production of records described in subsection (b) of this section at the request of a shareholder, the shareholder has met the requirements of subsection (c) of this section.~~

~~(6h) For purposes of this section, "shareholder" includes means a record shareholder, a beneficial owner whose shares are held in a shareholder, and an unrestricted voting trust ~~or by a nominee on his behalf~~ beneficial owner.~~

SECTION 161. That Section 30-29-1603, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1603. SCOPE OF INSPECTION RIGHT. ~~(1a) A shareholder's may appoint an agent or attorney has to exercise the same shareholder's inspection and copying rights as the shareholder represented under section 30-29-1602, Idaho Code.~~

~~(2b) The corporation may, if reasonable, satisfy the right of a shareholder to copy records under section 30-29-1602, Idaho Code, includes, if reasonable, by furnishing to the right to receive shareholder copies by xerographic photocopy or other means chosen by the corporation, including furnishing copies through an electronic transmission if available and so requested by the shareholder.~~

(3c) The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 30-29-1602(2b)(e4), Idaho Code, by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

(4d) The corporation may impose a reasonable charge, ~~covering to cover the costs of labor and material,~~ for providing copies of any documents provided to the shareholder that may be based on an estimate of such costs. ~~The charge may not exceed the estimated cost of production, reproduction or transmission of the records.~~

SECTION 162. That Section 30-29-1604, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1604. COURT-ORDERED INSPECTION. (1a) If a corporation does not allow a shareholder who complies with section 30-29-1602(1a), Idaho Code, to inspect and copy any records required by that subsection to be available for inspection, the Idaho district court of the county where the corporation's principal office is located or, if none in this state, Ada county, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(2b) If a corporation does not within a reasonable time allow a shareholder who complies with section 30-29-1602(b), Idaho Code, to inspect and copy ~~any other record~~ the records required by that section, the shareholder who complies with section 30-29-1602(2c) and ~~(3),~~ Idaho Code, may apply to the Idaho district court of the county where the corporation's principal office is located or, if none in this state, Ada county, for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3c) If the court orders inspection and copying of the records demanded, under section 30-29-1602(b), Idaho Code, it may impose reasonable restrictions on their confidentiality, use, or distribution by the demanding shareholder, and it shall also order the corporation to pay the shareholder's costs, ~~including reasonable counsel fees,~~ expenses incurred to obtain the order unless the corporation ~~proves~~ establishes that it refused inspection in good faith because ~~it~~ the corporation had:

(1) ~~a~~ a reasonable basis for doubt about the right of the shareholder to inspect the records demanded; or

(2) Required reasonable restrictions on the confidentiality, use, or distribution of the records demanded to which the demanding shareholder had been unwilling to agree.

~~(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.~~

SECTION 163. That Section 30-29-1605, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1605. INSPECTION RIGHTS OF RECORDS BY DIRECTORS. (1a) A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a board committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(2b) The district court of the county where the corporation's principal office is located, or if none in this state, Ada county, may order inspection and copying of the books, records and documents at the corporation's expense upon application of a director who has been refused such inspection rights unless the corporation establishes that the director is not entitled to such

inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(3c) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, ~~including reasonable counsel fees,~~ expenses incurred in connection with the application.

SECTION 164. That Section 30-29-1606, Idaho Code, be, and the same is hereby repealed.

SECTION 165. That Section 30-29-1620, Idaho Code, be, and the same is hereby repealed.

SECTION 166. That Section 30-29-1621, Idaho Code, be, and the same is hereby repealed.

SECTION 167. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-29-1620, Idaho Code, and to read as follows:

30-29-1620. FINANCIAL STATEMENTS FOR SHAREHOLDERS. (a) Upon the written request of a shareholder, a corporation shall deliver or make available to such requesting shareholder by posting on its website, or by other generally recognized means, annual financial statements for the most recent fiscal year of the corporation for which annual financial statements have been prepared for the corporation. If financial statements have been prepared for the corporation on the basis of generally accepted accounting principles for such specified period, the corporation shall deliver or make available such financial statements to the requesting shareholder. If the annual financial statements to be delivered or made available to the requesting shareholder are audited or otherwise reported upon by a public accountant, the report shall also be delivered or made available to the requesting shareholder.

(b) A corporation shall deliver, or make available and provide written notice of availability of, the financial statements required under subsection (a) of this section to the requesting shareholder within five (5) business days of delivery of such written request to the corporation.

(c) A corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the United States securities and exchange commission.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section:

(1) As a condition to delivering, or making available, financial statements to a requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of such financial statements; and

(2) The corporation may, if it reasonably determines that the shareholder's request is not made in good faith or for a proper purpose, decline to deliver or make available such financial statements to that shareholder.

(e) If a corporation does not respond to a shareholder's request for annual financial statements pursuant to this section in accordance with subsection (b) of this section within five (5) business days of delivery of such request to the corporation:

(1) The requesting shareholder may apply to the Idaho district court of the county where the corporation's principal office is located or, if none in this state, Ada county, for an order requiring delivery of or access to the requested financial statements. The court shall dispose of an application under this subsection on an expedited basis.

(2) If the court orders delivery or access to the requested financial statements, it may impose reasonable restrictions on their confidentiality, use, or distribution.

(3) In such proceeding, if the corporation has declined to deliver or make available such financial statements because the shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, and distribution of such financial statements, the corporation shall have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

(4) In such proceeding, if the corporation has declined to deliver or make available such financial statements pursuant to subsection (d) (2) of this section, the corporation shall have the burden of demonstrating that it had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

(5) If the court orders delivery or access to the requested financial statements, it shall order the corporation to pay the shareholder's expenses incurred to obtain such order unless the corporation establishes that it had refused delivery or access to the requested financial statements because the shareholder had refused to agree to reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the corporation had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

SECTION 168. That Section 30-29-1701, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1701. APPLICATION OF ~~CHAPTER~~ TO EXISTING DOMESTIC CORPORATIONS. This chapter applies to all domestic corporations in existence on the its effective date of ~~this chapter~~ that were incorporated under any general statute of this state providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved.

SECTION 169. That Section 30-29-1702, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1702. APPLICATION TO QUALIFIED EXISTING FOREIGN CORPORATIONS. A foreign corporation registered or authorized to transact do business in this state on the effective date of this chapter is subject to this chapter, but is deemed to be registered to do business in this state, and is not required to obtain file a new certificate of authority to transact business foreign registration statement under this chapter.

SECTION 170. That Section 30-29-1703, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1703. SAVING PROVISIONS. ~~(1a)~~ Except as provided in subsection ~~(2)~~ of this section, the repeal of a statute by to procedural provisions, this chapter does not affect: a pending action, proceeding, or a right accrued before the effective date of this chapter, and a pending civil action or proceeding may be completed, and a right accrued may be enforced, as if this chapter had not become effective.

~~(a) The operation of the statute or any action taken under it before its repeal;~~

~~(b) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued, or incurred under the statute before its repeal;~~

~~(c) Any violation of the statute, or any penalty, forfeiture or punishment incurred because of the violation, before its repeal; or~~

~~(d) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed.~~

(2b) If a penalty or punishment imposed for violation of a statute repealed by this chapter or rule is reduced by this chapter, the penalty or punishment, if not already imposed, shall be imposed in accordance with this chapter.

SECTION 171. That Section 30-29-1704, Idaho Code, be, and the same is hereby amended to read as follows:

30-29-1704. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the this chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

SECTION 172. That Section 30-2006, Idaho Code, be, and the same is hereby amended to read as follows:

30-2006. CORPORATE PURPOSES. (1) A benefit corporation shall have a purpose of creating general public benefit. This purpose is in addition to its purpose under section 30-29-301, Idaho Code.

(2) The articles of incorporation of a benefit corporation may identify one (1) or more specific public benefits that it is the purpose of the benefit corporation to create in addition to its purposes under section 30-29-301, Idaho Code, and subsection (1) of this section. The identification of a specific public benefit under this subsection does not limit the purpose of a benefit corporation to create general public benefit under subsection (1) of this subsection.

(3) The creation of general public benefit and specific public benefits under subsections (1) and (2) of this section is in the best interests of the benefit corporation.

(4) A benefit corporation may amend its articles of incorporation to add, amend or delete the identification of a specific public benefit that it is the purpose of the benefit corporation to create. In order to be effective, the amendment must be adopted by at least the minimum status vote.

(5) A professional corporation that is a benefit corporation does not violate section 30-29-1303(2b), Idaho Code, by having the purpose to create general public benefit or a specific public benefit.

Approved March 18, 2019

CHAPTER 91
(H.B. No. 94)

AN ACT

RELATING TO LIQUEFIED PETROLEUM GAS CONTAINERS; AMENDING CHAPTER 53, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-5318, IDAHO CODE, TO PROHIBIT THE FILLING OF LIQUEFIED PETROLEUM GAS CONTAINERS UNDER CERTAIN CONDITIONS, TO PROVIDE PENALTIES, TO PROVIDE FOR ASCERTAINMENT OF THE TERMS OF A WRITTEN LEASE, TO PROVIDE AN EXCEPTION FOR MISREPRESENTATION, TO PROVIDE THAT LEASE RESTRICTIONS SHALL BE PLAINLY STATED, AND TO PROVIDE FOR DISQUALIFICATION FROM PROTECTION.

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

SECTION 1. That Chapter 53, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-5318, Idaho Code, and to read as follows:

54-5318. FILLING OF LIQUEFIED PETROLEUM GAS CONTAINERS -- RESTRICTIONS. (1) Except as provided in subsection (3) of this section, a person who fills a leased liquefied petroleum gas container in violation of the terms of a written lease is liable in an action by the container lessor for the greater of:

- (a) The actual damages to the container lessor, including incidental and consequential damages and attorney's fees; or
- (b) Five hundred dollars (\$500) for each violation.

(2) The burden of ascertaining the terms of a written lease for purposes of subsection (1) of this section is on the person filling the liquefied petroleum gas container. A person has ascertained the terms of a written lease if he has:

- (a) Read the lease;
- (b) Received the assurance of the container owner that the lease does not prohibit the person from filling the container;
- (c) Obtained a signed, written statement from the lessee that the written lease does not prohibit the person from filling the container; or
- (d) The leased liquefied petroleum gas container is clearly labeled, near the container fill point, as a container subject to lease terms prohibiting the filling of the container without the lessor's permission.

(3) If a lessee misrepresents his ownership or the terms of his written lease, the lessee who made the misrepresentation, and not the person filling the tank, is liable for the damages under subsection (1) of this section.

(4) If a written liquefied petroleum gas container lease restricts the right to fill a leased container, the restriction shall be plainly stated in the lease in any manner designed to draw the attention of the lessee to the lease provision, including:

- (a) Typing the restriction in at least two-point larger type than the majority of the document type;
- (b) Underlining the restriction; or
- (c) Typing the restriction in boldface type.

(5) A lessor whose liquefied petroleum gas container lease does not comply with the provisions of subsection (4) of this section is disqualified from protection under this section.

Approved March 18, 2019

CHAPTER 92
(H.B. No. 109)

AN ACT

RELATING TO MATERNAL DEATHS; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 96, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO ESTABLISH PROVISIONS REGARDING A MATERNAL MORTALITY REVIEW COMMITTEE, TO ESTABLISH PROVISIONS REGARDING COMMITTEE PROCEEDINGS, RECORDS, CONFIDENTIALITY, AND IMMUNITY, TO PROVIDE FOR ACCESS TO CERTAIN RECORDS, AND TO PROVIDE RULEMAKING AUTHORITY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 96, Title 39, Idaho Code, and to read as follows:

CHAPTER 96
MATERNAL MORTALITY REVIEW

39-9601. LEGISLATIVE FINDINGS. The legislature of the state of Idaho finds that:

(1) According to the world health organization, maternal mortality rates worldwide dropped 44% between 1990 and 2015, but increased in the United States;

(2) The institute for health metrics and evaluation at the university of Washington found the United States has a maternal death rate of 26.4 per 100,000 live births, compared to other countries such as the United Kingdom (9.2), Germany (9), France (7.8), Canada (7.3), Spain (5.6), Italy (4.2), and Finland (3.8);

(3) In 2018, Idaho ranked thirty-first out of fifty states in rates of maternal mortality, according to the centers for disease control and prevention. Per Idaho vital statistics, Idaho's maternal death rate in 2017 was 27.1 deaths per 100,000 live births;

(4) Maternal deaths are a serious public health concern and have a tremendous family and societal impact;

(5) No statewide process currently exists for the confidential identification, investigation, or dissemination of findings regarding maternal deaths; and

(6) The state has a public health interest in the establishment of a process for review of maternal deaths in order to develop strategies for the prevention of maternal deaths.

39-9602. DEFINITIONS. As used in this chapter:

(1) "Committee" means the maternal mortality review committee established by section 39-9603, Idaho Code.

(2) "Department" means the state department of health and welfare.

(3) "Maternal death" means the death of a woman from any cause during pregnancy or within one (1) year following the end of the pregnancy.

39-9603. ESTABLISHMENT OF MATERNAL MORTALITY REVIEW COMMITTEE. (1) There is hereby established in the department a maternal mortality review committee, which committee shall conduct comprehensive, multidisciplinary reviews of maternal deaths in Idaho for the purposes of identifying factors associated with the deaths and to make policy recommendations to improve health care services for women and reduce the incidence of maternal mortal-

ity in the state. The department may enter into a contract with a third party for administrative functions of the committee.

(2) The committee shall consist of at least twelve (12) but no more than fifteen (15) members selected by the department, to include:

(a) Five (5) physicians licensed under chapter 18, title 54, Idaho Code, with one (1) each from the following medical specialties:

(i) Family medicine with a practice that includes maternity care and delivery;

(ii) Obstetrics and gynecology;

(iii) Maternal fetal medicine;

(iv) Family medicine, obstetrics and gynecology, or emergency medicine that includes maternity care and delivery in a rural setting; and

(v) Medical examiner or pathologist or other physician who conducts autopsies;

(b) One (1) advanced practice professional nurse midwife licensed under chapter 14, title 54, Idaho Code;

(c) One (1) registered nurse licensed under chapter 14, title 54, Idaho Code, working in labor and delivery;

(d) One (1) midwife licensed under chapter 55, title 54, Idaho Code;

(e) One (1) coroner;

(f) One (1) master social worker licensed under chapter 32, title 54, Idaho Code;

(g) One (1) emergency medical services provider licensed under chapter 10, title 56, Idaho Code; and

(h) One (1) public health representative with an expertise in maternal and child health.

(3) In selecting committee members, the department shall consider a composition that is reasonably representative of the state's geographic diversity.

(4) The department shall:

(a) Identify maternal death cases;

(b) Obtain and review medical records and other relevant data using best practices for case reviews;

(c) Consult, as appropriate, with relevant experts to evaluate and interpret the records and data;

(d) Consult, as appropriate, with family members and other affected or involved persons to collect additional relevant information;

(e) Convene the committee at least annually and provide committee members with the available information necessary to fully review each case; and

(f) Deliver an annual report of the committee's findings and recommendations to the legislature and make these findings and recommendations available to health care providers, health care facilities, and the general public.

(5) The committee shall:

(a) Review medical records and other data obtained by the department for each case;

(b) Make determinations regarding the preventability of maternal deaths; and

(c) Develop recommendations for the prevention of maternal deaths.

39-9604. PROCEEDINGS, RECORDS, CONFIDENTIALITY, AND IMMUNITY. The purpose of the maternal mortality review committee is to gather data and information concerning maternal mortality, conduct thorough and unbiased critical analyses of the causes of maternal mortality, and recommend possible changes to health care delivery in this state to reduce or eliminate preventable maternal deaths. In order to collect the necessary data and information, to the fullest extent possible, the proceedings of the commit-

tee and the statements, records, and information created or made therein or gathered by the committee in furtherance of its duties shall be treated as confidential and privileged, and the committee and all participants shall be afforded all protections provided to other organizations and participants therein conducting peer review or other critical analyses under sections 39-1392a through 39-1392f, Idaho Code, or other provisions of state or federal law. Nothing in this chapter shall affect the privileged and confidential nature of a health care organization's peer review records, activities, or actions.

39-9605. ACCESS TO RECORDS. Upon request of the department, all information relating to the incidence of maternal mortality under review shall be provided by health care providers, providers of social services, health care facilities, law enforcement agencies, coroners, medical examiners, emergency medical service personnel, providers of medical transport services, and any other political subdivision or agency of state government having information relevant to the performance of the committee's duties.

39-9606. RULEMAKING. The department of health and welfare may promulgate rules pursuant to chapter 52, title 67, Idaho Code, necessary to administer this chapter.

SECTION 2. The provisions of Section 1 of this act shall be null, void, and of no force and effect on and after July 1, 2023.

Approved March 18, 2019

CHAPTER 93
(H.B. No. 113)

AN ACT

RELATING TO WAGE CLAIMS; AMENDING SECTION 45-614, IDAHO CODE, TO INCREASE THE TIME PERIOD WHEN A CLAIM TO COLLECT WAGES, PENALTIES, OR INTEREST MUST BE COMMENCED.

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

SECTION 1. That Section 45-614, Idaho Code, be, and the same is hereby amended to read as follows:

45-614. COLLECTION OF WAGES -- LIMITATIONS. Any person shall have the right to collect wages, penalties and liquidated damages provided by any law or pursuant to a contract of employment, but any action thereon shall be filed either with the department or commenced in a court of competent jurisdiction within two (2) years after the cause of action accrued, provided, however, that in the event salary or wages have been paid to any employee and such employee claims additional salary, wages, penalties or liquidated damages, because of work done or services performed during his employment for the pay period covered by said payment, any action therefor shall be commenced within ~~six (6)~~ twelve (12) months from the accrual of the cause of action. It is further provided that if any such cause of action has accrued prior to the effective date of this act, and is not barred by existing law, action thereon may be commenced within six (6) months from the effective date of this act. In the event an action is not commenced as herein provided, any remedy on the cause of action shall be forever barred.

Approved March 18, 2019

CHAPTER 94
(H.B. No. 126)

AN ACT

RELATING TO OVERHANGING LOADS AND FLAG SIZE; AMENDING SECTION 49-913, IDAHO CODE, TO REVISE PROVISIONS REGARDING FLAG SIZE; AND AMENDING SECTION 49-1010, IDAHO CODE, TO REVISE PROVISIONS REGARDING FLAG SIZE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-913, Idaho Code, be, and the same is hereby amended to read as follows:

49-913. LAMP OR FLAG ON PROJECTING LOAD. Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of the vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in section 49-903, Idaho Code, a red light or lantern plainly visible from a distance of at least five hundred (500) feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of the load a red or fluorescent orange flag a minimum of ~~twelve~~ eighteen (128) inches by ~~twelve~~ eighteen (128) inches and hung so that the flag is visible to the driver of a vehicle approaching from the rear.

SECTION 2. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one ~~(1)~~ farm operation to another during daylight hours.

(b) The limitations as to size of vehicles shall not apply to farmers or their designated agents, or equipment dealers transporting implements of husbandry and equipment listed in paragraph (a) of this subsection for the purpose of:

(i) The repair or maintenance of such implements of husbandry and equipment when traveling to or from a farm to a repair or maintenance facility during daylight hours; or

(ii) The purchase, sale, lease or rental of such implements of husbandry and equipment when traveling to or from a farm to a dealership, auction house or other facility during daylight hours.

(c) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed 9 feet.

(d) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (c) of this subsection, must display one (1) red or fluorescent orange flag a minimum of ~~twelve~~ eighteen (12~~8~~) by ~~twelve~~ eighteen (12~~8~~) inches on the outermost left projection of the tractor or implement being transported.

(2) The height of a vehicle, including the load thereon, shall not exceed 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle 45 feet.

(b) When a trailer or semitrailer, except as noted below in this subsection 48 feet.

1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semitrailers operating on routes which are a part of the national network as set forth in 23 CFR 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network and state highways as set forth by policy and approved by the transportation board, shall not exceed a length of 53 feet.

(c) When a motor vehicle and one (1) or more trailers, except as noted in subsection (3) (b), (3) (d) and (3) (e) of this section 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below in this subsection 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in 23 CFR 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed 68 feet.

(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) 75 feet.

- (g) When a dromedary combination transporting class 1 explosive materials and/or any munitions-related security material as specified by the U.S. department of defense in compliance with 49 CFR 177.835, not meeting the stinger-steer requirement as defined in subsection (3) (f) of this section, up to 75 feet.
- (h) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in ~~subsection (3) paragraph~~ (f) of this subsection 65 feet.
- (i) When a boat transporter, stinger-steered as defined in subsection (3) (f) of this section, excluding front and rear overhang of load 75 feet.
- (j) When an auto transporter, stinger-steered as defined in subsection (3) (f) of this section, excluding front and rear overhang of load 80 feet.
- (k) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in ~~subsection (3) paragraph~~ (f) of this subsection, excluding front and rear overhang of load 65 feet.
- (l) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections 75 feet.
- (4) The overhang or extension of a load shall not extend:
 - (a) Beyond the front of a vehicle, more than 4 feet.
 - (b) Beyond the end of a vehicle, more than 10 feet.
 - (c) Beyond the left fender of a passenger vehicle, more than ... 0 feet.
 - (d) Beyond the right fender of a passenger vehicle, more than 6 inches.
 - (e) To the front of a boat transporter, more than 3 feet.
 - (f) To the rear of a boat transporter, more than 4 feet.
 - (g) To the front of an auto transporter, more than 4 feet.
 - (h) To the rear of an auto transporter, more than 6 feet.
- (5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.
- (6) No combination shall include more than three (3) units except when a saddlemount combination and the overall length allowed is:
 - (a) On the national network 97 feet.
 - (b) Other than the national network 75 feet.
- (7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred fifteen (115) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:
 - (a) Truck tractor and two (2) trailing units 95 feet.
 - (b) Truck tractor and three (3) trailing units 95 feet.
 - (c) Truck and two (2) trailing units 98 feet.

Approved March 18, 2019

CHAPTER 95
(H.B. No. 151)

AN ACT

RELATING TO FOOD ESTABLISHMENTS; AMENDING SECTION 39-1607, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-1607, Idaho Code, be, and the same is hereby amended to read as follows:

39-1607. LICENSE AND OTHER FEES -- PROHIBITION ON ADDITIONAL FEES. (1) A fee may be charged by the department of health and welfare's regulatory authority for licensing a food establishment.

~~(a) The fee per food establishment for licenses issued from July 1, 2009, through June 30, 2010, shall be:~~

~~(i) Sixty-five dollars (\$65.00) for temporary food establishments, intermittent food establishments and mobile food establishments without a commissary;~~

~~(ii) Seventy-five dollars (\$75.00) for mobile food establishments with a commissary;~~

~~(iii) Ninety-five dollars (\$95.00) for all other food establishments, except for food establishments with more than two (2) licenses on one (1) premises under common ownership; and~~

~~(iv) One hundred seven dollars and fifty cents (\$107.50) for food establishments with more than two (2) licenses on one (1) premises under common ownership.~~

~~(b) The fee per food establishment per year for licenses issued on and after July 1, 2010, shall be:~~

~~(a) Thirty-five dollars (\$35.00) for a temporary food establishment operating for one (1) day, forty-five dollars (\$45.00) for a temporary food establishment operating for two (2) or three (3) days, and seventy-two dollars (\$72.00) for a temporary food establishment operating for four (4) or more days or at multiple events;~~

~~(ib) Sixty-five dollars (\$65.00) for temporary food establishments, intermittent food establishments and mobile food establishments without a commissary;~~

~~(iic) Eighty-five dollars (\$85.00) for mobile food establishments with a commissary;~~

~~(iiid) One hundred twenty-five dollars (\$125) for all other food establishments, except for food establishments with more than two (2) licenses on one (1) premises under common ownership; and~~

~~(ive) One hundred fifty dollars (\$150) for food establishments with more than two (2) licenses on one (1) premises under common ownership.~~

~~(2) A license issued to a temporary or intermittent food establishment by a regulatory authority shall be valid only for the celebration or event for which the license was issued; however, no additional license fee will be charged by a regulatory authority to a temporary or intermittent food establishment for other celebrations or events within the same calendar year and with the same menu. Effective January 1, 2020, the fee per food establishment per year for licenses shall be:~~

~~(a) Thirty-five dollars (\$35.00) for a temporary food establishment operating for one (1) day, forty-five dollars (\$45.00) for a temporary food establishment operating for two (2) or three (3) days, and seventy-two dollars (\$72.00) for a temporary food establishment operating for four (4) or more days or at multiple events;~~

(b) Seventy-two dollars (\$72.00) for intermittent food establishments;

(c) Seventy-two dollars (\$72.00) for mobile food establishments without a commissary;

(d) Ninety-two dollars (\$92.00) for mobile food establishments with a commissary;

(e) One hundred sixty dollars (\$160) for all other food establishments, except for food establishments with more than two (2) licenses on one (1) premises under common ownership; and

(f) Two hundred dollars (\$200) for food establishments with more than two (2) licenses on one (1) premises under common ownership.

(3) Effective January 1, 2022, the fee per food establishment per year for licenses shall be:

(a) Thirty-five dollars (\$35.00) for a temporary food establishment operating for one (1) day, forty-five dollars (\$45.00) for a temporary food establishment operating for two (2) or three (3) days, and eighty dollars (\$80.00) for a temporary food establishment operating for four (4) or more days or at multiple events;

(b) Eighty dollars (\$80.00) for intermittent food establishments;

(c) Eighty dollars (\$80.00) for mobile food establishments without a commissary;

(d) One hundred dollars (\$100) for mobile food establishments with a commissary;

(e) Two hundred dollars (\$200) for all other food establishments, except for food establishments with more than two (2) licenses on one (1) premises under common ownership; and

(f) Two hundred fifty dollars (\$250) for food establishments with more than two (2) licenses on one (1) premises under common ownership.

(4) Effective July 1, 2019, in addition to other fees assessed by this section, the designated regulatory authority may assess:

(a) A plan review and preoperational inspection fee of one hundred dollars (\$100);

(b) A late fee for any fees paid past the applicable deadline;

(c) A license reinstatement fee of eighteen dollars (\$18.00);

(d) A request for variance fee of fifty dollars (\$50.00) per hour;

(e) A compliance conference fee of one hundred dollars (\$100) per hour;

(f) Enforcement and legal fees of one hundred fifty dollars (\$150) per hour; and

(g) Fees covering operational costs for inspections conducted pursuant to federal law or regulation.

(35) Fees collected for licensing a food establishment shall be used by the designated regulatory authority for funding a portion of the food safety inspection program. The designated regulatory authority may not impose fees on food establishments in addition to those provided by this section or specifically authorized by other applicable law.

(46) On and after January 1, 2010, tThe regulatory authority shall review at three (3) year intervals the cost data associated with the operation of the food safety inspection program as well as actions taken to increase the efficiency of such program and provide a report on same such review to the health and welfare committees of the Idaho legislature.

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

CHAPTER 96
(H.B. No. 171)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-301, IDAHO CODE, TO REQUIRE THE COUNTY CLERK TO PROVIDE A DESCRIPTION OF ALL PRECINCTS WITHIN THE COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-302, IDAHO CODE, TO REVISE THE TIME BY WHICH A PRECINCT POLLING LOCATION SHALL BE DESIGNATED, TO REVISE A CITATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-303, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH RECOMMENDATIONS FOR ELECTION JUDGES MUST BE SUBMITTED, TO REVISE THE TIME WITHIN WHICH APPLICATIONS TO SERVE ON AN ELECTION BOARD MUST BE RECEIVED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-413, IDAHO CODE, TO PROVIDE THAT AN ELECTOR WHO MOVES TO ANOTHER COUNTY OR STATE WITHIN THIRTY DAYS OF AN ELECTION MAY VOTE AT THE POLLING PLACE ASSIGNED TO THE ELECTOR'S PRIOR ADDRESS; REPEALING SECTION 34-417, IDAHO CODE, RELATING TO THE ALTERATION OF REGISTRATION CARDS FOLLOWING CHANGES IN A PRECINCT BOUNDARY; AMENDING SECTION 34-420, IDAHO CODE, TO PROVIDE THAT AN ELECTOR'S REGISTRATION MAY BE CANCELED IF HE HAS REGISTERED TO VOTE IN ANOTHER JURISDICTION, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-432, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH A COUNTY CLERK MUST EXAMINE THE ELECTION REGISTER AND NOTE CERTAIN CHALLENGES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-705, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH THE SECRETARY OF STATE SHALL CERTIFY CERTAIN INFORMATION TO THE COUNTY CLERKS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-909, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH THE SECRETARY OF STATE SHALL PROVIDE CERTAIN SAMPLE BALLOT INFORMATION TO COUNTY CLERKS; AMENDING SECTION 34-1002, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH VALIDLY REQUESTED ABSENTEE BALLOTS FOR CANDIDATES FOR FEDERAL OFFICE SHALL BE RECEIVED AND SENT TO ELECTORS AND WITHIN WHICH A POLITICAL PARTY MUST SUPPLY THE NAME OF A WITNESS TO THE DELIVERY OF AN ABSENTEE BALLOT TO THE COUNTY CLERK AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1405A, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH A CANDIDATE MAY WITHDRAW HIS CANDIDACY; AMENDING SECTION 34-1407, IDAHO CODE, TO REVISE THE TIME WITHIN WHICH A WRITE-IN CANDIDATE MUST FILE A DECLARATION OF INTENT; AMENDING SECTION 34-1703, IDAHO CODE, TO PROVIDE FOR A MAXIMUM OF TWENTY NUMBERED LINES FOR SIGNATURES ON RECALL PETITIONS; AMENDING SECTION 34-1801A, IDAHO CODE, TO PROVIDE FOR A MAXIMUM OF TWENTY NUMBERED LINES FOR SIGNATURES ON AN INITIATIVE OR REFERENDUM PETITION; AMENDING SECTION 34-1809, IDAHO CODE, TO PROVIDE THAT SERVICE OF A BALLOT TITLE MAY BE MADE BY ELECTRONIC TRANSMISSION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-301, Idaho Code, be, and the same is hereby amended to read as follows:

34-301. ESTABLISHMENT OF ELECTION PRECINCTS BY COUNTY COMMISSIONERS -- LISTS AND MAPS TO BE FURNISHED TO SECRETARY OF STATE. (1) The board of county commissioners in each county shall establish a convenient number of election precincts therein. The board of county commissioners may establish an absentee voting precinct for each legislative district within the county. The boundaries of such absentee precincts shall be the same as those of the legislative districts for which they were established. The board shall have the authority to create new or consolidate established precincts only within

the boundaries of legislative districts. No county shall have less than two (2) precincts. This board action shall be done no later than January 15 in a general election year. The January 15 deadline shall be waived during a general election year in which a legislative or court-ordered redistricting plan is adopted. In such cases, any precinct boundary adjustments shall be accomplished by the county commissioners as soon as is practicable.

(2) The county clerk of each county shall provide, and the secretary of state shall maintain in his office, a current and accurate report of the following:

- (a) A list of all precincts within the county;
- (b) A map and description of all precincts within the county;
- (c) A count of voters registered for the latest general election, by precinct; and
- (d) A count of votes cast at the latest general election, by precinct.

SECTION 2. That Section 34-302, Idaho Code, be, and the same is hereby amended to read as follows:

34-302. DESIGNATION OF PRECINCT POLLING PLACES. The board shall, ~~not less than thirty (30) days by the fifth Friday~~ before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election which ~~that~~ it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. All polling places designated as provided herein, shall conform to the accessibility standards adopted by the secretary of state pursuant to the "Voting Accessibility for the Elderly and Handicapped Act," P.L. 98-435 52 U.S.C. 20101 et seq. The expense of providing such polling places shall be a public charge and paid out of the county treasury.

SECTION 3. That Section 34-303, Idaho Code, be, and the same is hereby amended to read as follows:

34-303. APPOINTMENT OF ELECTION JUDGES BY COUNTY CLERK. (1) The county clerk shall appoint two (2) or more election judges, one (1) of whom shall be designated chief judge, and the number of clerks deemed necessary by him for each polling place. In the event a single polling place is designated for two (2) or more precincts, an individual may serve simultaneously on the election board for two (2) or more precincts thus served by a single polling place. The precinct committeemen shall recommend persons for the position in their respective precincts to the county clerk in writing ~~at least ten (10) days by the fifth Friday prior to the date on which any appointment shall be made~~ primary election and the county clerk shall appoint the judges from such lists if the persons recommended are qualified.

(2) The chief election judge shall be responsible for the conduct of the proceedings in the polling place. Compensation for all election personnel shall be determined by the board of county commissioners, ~~and not at no less than the minimum wage as prescribed by the laws of the state of Idaho.~~

(3) Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts ~~at least sixty (60) days prior to the primary election by the prescribed deadline.~~

(4) In order to provide for a greater awareness of the election process, the rights and responsibilities of voters and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, a county clerk may appoint not more than two (2) students per precinct to serve under the direct supervision of election board members designated by the county clerk. A student may be appointed, notwithstanding

lack of eligibility to vote, if the student possesses the following qualifications:

- (a) Is at least sixteen (16) years of age at the time of the election for which he or she is serving as a member of an election board; and
- (b) Is a citizen of the United States.

SECTION 4. That Section 34-413, Idaho Code, be, and the same is hereby amended to read as follows:

34-413. REREGISTRATION OF ELECTOR WHO CHANGES RESIDENCE. An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing election by absentee ballot or at the polling place assigned to the elector's prior address.

SECTION 5. That Section 34-417, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 34-420, Idaho Code, be, and the same is hereby amended to read as follows:

34-420. NO ELECTOR'S REGISTRATION SHALL BE CANCELLED CANCELED WHILE ~~HE IS SERVING IN THE ARMED FORCES -- EXCEPTION. (1)~~ Except as provided in section 34-435, Idaho Code, or for registering to vote in another jurisdiction, no elector's registration shall be cancelled canceled, nor shall he be deprived of his right to vote at any election by reason of the removal of his official registration application from the register of electors, during any period that he is serving in the armed forces of the United States or of any ally of the United States.

~~(2) In order to facilitate the implementation of the provisions of subsection (1) of this section, the one hundred twenty (120) day limitation in section 34-435, Idaho Code, shall be waived for the year 1987, in order to allow military registrations to be cancelled by the county clerk in calendar year 1987.~~

SECTION 7. That Section 34-432, Idaho Code, be, and the same is hereby amended to read as follows:

34-432. CORRECTION OF ELECTION REGISTER FROM CHALLENGES AT ELECTION. (1) ~~Within sixty (60) days~~ No later than the ninth Friday after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, Idaho Code. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from the date of mailing of the written inquiry, the elector may, in person or in writing, state that the information on his registration card is correct. Upon receipt of such a statement or request, the county clerk shall determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

SECTION 8. That Section 34-705, Idaho Code, be, and the same is hereby amended to read as follows:

34-705. WITH WHOM DECLARATIONS FILED. (1) All candidates for county offices, whether political party candidates or independent candidates, and all political party candidates for precinct offices shall file their declarations of candidacy with the county clerk of their respective counties. All candidates for district, state and federal offices shall file their declarations of candidacy with the secretary of state.

(2) The secretary of state, shall certify to the county clerks, within ten (10) days after the filing deadline, the names of the political party candidates who filed for federal, state and district offices and are qualified and by not later than the tenth day prior to the primary shall certify the names of political party candidates who have been appointed by central committees to fill vacancies as provided by for placement on the ballot.

(3) The secretary of state shall certify the name of a candidate being appointed by the appropriate central committee pursuant to section 34-714, Idaho Code, by no later than the next business day after the appointment is received in the secretary of state's office, if received after the certification of candidates to the county clerks under subsection (2) of this section.

SECTION 9. That Section 34-909, Idaho Code, be, and the same is hereby amended to read as follows:

34-909. GENERAL ELECTION SAMPLE BALLOTS FORWARDED TO COUNTIES BY SECRETARY OF STATE. (1) The secretary of state, ~~not no~~ later than September 7, shall ~~prepare provide~~ the necessary general election sample ballots for the various counties and forward them ballot layout to each of the several county clerks.

(2) The sample ballot layout shall contain the proper office titles, order of offices and ballot layout for the general election, with instructions for placement of candidates seeking election for federal, state, legislative, county and precinct offices and candidates seeking judicial office or retention. If a county is within more than one (1) legislative district, the secretary of state shall provide instructions on the requirements for a separate ballot for each legislative district that is within the county.

(3) The secretary of state shall ~~place~~ certify to the county clerks the names and political party of the candidates qualified for placement on the general election ballot for all federal, state and legislative district offices on the sample ballots, and by not later than the tenth day prior to the general election along with any judicial candidates, by no later than the ninth Friday prior to the general election.

(4) The secretary of state shall certify the names of candidates who have been name of a candidate being appointed by the appropriate central committees to fill vacancies committee as provided by section 34-715, Idaho Code, by no later than the next business day after the appointment is received in the secretary of state's office, if received after the certification of candidates to the county clerks under subsection (3) of this section.

SECTION 10. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector's home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party's primary election pursuant to section 34-904A, Idaho Code, the elector shall designate, as part of the written application for a ballot for primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary ballot the "unaffiliated" elector chooses to vote. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in that political party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot.

(3) In order to provide the appropriate primary election ballot to electors, in the event one (1) or more political parties elect to allow electors affiliated with a different political party to vote in that party's primary election, the application shall contain checkoff boxes by which such electors may indicate the primary ballot in which the elector wishes to vote.

(4) For electors who are registered to vote as of January 1, 2012, and who remain registered electors, the elector shall designate, as part of the written application for a ballot for the 2012 primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary election ballot the "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho Code. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in the party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot. After the 2012 primary election, the county clerk shall record the party affiliation or "unaffiliated" designation so selected on the application for an absentee ballot as part of such an elector's record within the voter registration system as provided for in section 34-437A, Idaho Code.

(5) After the 2012 primary election, electors who remain registered voters and who did not vote in the 2012 primary elections and who make written application for an absentee ballot shall be designated as "unaffiliated" electors as provided in section 34-404, Idaho Code, and such electors shall be given the appropriate ballot for such "unaffiliated" designation pursuant to the provisions of this act.

(6) An elector may not change party affiliation or designation as "unaffiliated" on an application for absentee ballot. For primary elections, an elector may change party affiliation or designation as "unaffiliated" as provided for in section 34-411A, Idaho Code.

(7) The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the eleventh day before the election. An application for in-person absentee voting at the absent elector's polling place described in section 34-1006, Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on the Friday before the election. Application for an absentee ballot may

be made by using a facsimile machine or other electronic transmission. In the event a registered elector is unable to vote in person at the elector's designated polling place on the day of election because of an emergency situation that rendered the elector physically unable, the elector may nevertheless apply for an absent elector's ballot by notifying the county clerk within ninety-six (96) hours prior to the closing of the polls. No person may, however, be entitled to vote under an emergency situation unless the situation claimed rendered the elector physically unable to vote at the elector's designated polling place within ninety-six (96) hours prior to the closing of the polls.

(8) A person may make application for an absent elector's ballot by use of a properly executed federal ~~post-card~~ postcard application as provided for in the laws of the United States known as uniformed and overseas citizens absentee voting act (UOCAVA, 42 52 U.S.C. ~~1973-ff~~, 20301 et seq., as amended). The issuing officer shall keep as a part of the records of such officer's office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

(9) The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

SECTION 11. That Section 34-1003, Idaho Code, be, and the same is hereby amended to read as follows:

34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of the county clerk's office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, the elector shall arrange for the applicant to vote by absent elector's ballot.

(2) In the case of requests for primary ballots:

(a) Except as provided in ~~subsection (2)~~ paragraph (b) of this subsection, an elector who has designated a political party affiliation shall receive a primary ballot for that political party.

(b) An elector who has designated a political party affiliation pursuant to section 34-404, Idaho Code, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2) (b), Idaho Code.

(c) An "unaffiliated" elector shall receive the primary ballot for the political party which the elector designated in the elector's application for an absentee ballot pursuant to section 34-1002, Idaho Code. Provided however, that a political party's ballot shall not be provided to an "unaffiliated" elector where that political party has not elected to allow "unaffiliated" electors to vote in such party's primary election pursuant to section 34-904A, Idaho Code.

(d) If an "unaffiliated" elector does not indicate a choice of political party's primary ballot, the elector shall receive a nonpartisan ballot.

(3) The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means, including use of a facsimile machine or other electronic transmission. Validly requested absentee ballots for candidates for federal office, where the request is received at least forty-five (45) days before an election, shall be sent not later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

(4) Pursuant to the uniformed and overseas citizens absentee voting act (UOCAVA, 42 52 U.S.C. 1973 ~~ff~~, 20301 et seq., as amended) the secretary of state shall establish procedures for the transmission of blank absentee ballots by mail and by electronic transmission for all electors who are entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act, and by which such electors may designate whether the elector prefers the transmission of such ballots by mail or electronically. If no preference is stated, the ballots shall be transmitted by mail. The secretary of state shall establish procedures for transmitting such ballots in a manner that shall protect the security and integrity of such ballots and the privacy of the elector throughout the process of transmission.

(5) A political party may supply a witness to accompany the clerk in the personal delivery of an absentee ballot. If the political party desires to supply a witness, it shall be the duty of the political party to supply the names of such witnesses to the clerk no later than ~~forty-fivesix~~ (456) days prior to the election. The clerk shall notify such witnesses of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.

(6) A candidate for public office or a spouse of a candidate for public office shall not be a witness in the personal delivery of absentee ballots.

(7) An elector physically unable to mark such elector's own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of the elector's own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

SECTION 12. That Section 34-1405A, Idaho Code, be, and the same is hereby amended to read as follows:

34-1405A. WITHDRAWAL OF CANDIDACY. A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. A candidate may not withdraw later than ~~forty-fivesix~~ (456) days before an election.

SECTION 13. That Section 34-1407, Idaho Code, be, and the same is hereby amended to read as follows:

34-1407. WRITE-IN CANDIDATES. (1) No write-in candidate for any non-partisan elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the clerk of the political subdivision ~~not less than forty-five (45) days by no later than the seventh Friday~~ before the date of the election.

(2) If the statutes governing elections within a specific political subdivision provide that no election shall be held in the event that no more than one (1) candidate has filed for an office, that statute shall be interpreted in such a manner as to allow for filing a declaration of intent for a write-in candidate until ~~forty-five (45) days~~ the seventh Friday preceding the election. However, if no candidate has filed within that time, no election shall be held for that political subdivision. The provisions of this section shall not apply to candidates in the primary or general election covered by the provisions of section 34-702A, Idaho Code.

SECTION 14. That Section 34-1703, Idaho Code, be, and the same is hereby amended to read as follows:

34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the ~~h~~Honorable . . . , Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that . . . , holding the office of . . . , be recalled by the registered electors of this state for the following reasons, ~~to-wit:~~ (setting out the reasons for recall in ~~not~~ no more than 200 words) ~~+~~: that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow no more than twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the ~~h~~Honorable . . . , Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. . . . , respectfully demand that . . . , holding the office of . . . , be recalled by the registered electors of Legislative District No. . . . for the following reasons, ~~to-wit:~~ (setting out the reasons for recall in ~~not~~ no more than 200 words) ~~+~~: that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No. . . . , my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow no more than twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the ~~h~~Honorable . . . , County Clerk for the County of . . . :

We, the undersigned citizens and registered electors of the County of . . . , respectfully demand that . . . , holding the office of . . . , of the County of . . . , be recalled by the registered electors of the County of . . . for the following reasons, ~~to-wit:~~ (setting out the reasons for recall in ~~not~~ no more than 200 words) ~~+~~:

that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of . . . , my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow no more than twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the hHonorable . . . , City Clerk for the City of . . . :

We, the undersigned citizens and registered electors of the City of . . . , respectfully demand that . . . , holding the office of . . . , of the City of . . . , be recalled by the registered electors of the City of . . . for the following reasons, ~~to-wit:~~ (setting out the reasons for recall in ~~not~~ no more than 200 words) ~~+~~:

that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of . . . , my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow no more than twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the hHonorable . . . , County Clerk of the County of . . . :

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that . . . , holding the office of . . . , of the (district), be recalled by the registered electors of the (district) for the following reasons, ~~to-wit:~~ (insert the reasons for the recall in two hundred (200) words or less) ~~+~~:

that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow no more than twenty numbered lines for signatures.)

SECTION 15. That Section 34-1801A, Idaho Code, be, and the same is hereby amended to read as follows:

34-1801A. PETITION. The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable . . . , Secretary of State of the State of Idaho:

"We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, ~~to-wit:~~ (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the . . . day of . . . , A.D. . . . , and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed	Residence	City	Date	Legislative
	Name	Street			District
		and			Official
		Number			use only

(Here follow no more than twenty numbered lines for signatures.)

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

SECTION 16. That Section 34-1809, Idaho Code, be, and the same is hereby amended to read as follows:

34-1809. REVIEW OF INITIATIVE AND REFERENDUM MEASURES BY ATTORNEY GENERAL -- CERTIFICATE OF REVIEW PREREQUISITE TO ASSIGNMENT OF BALLOT TITLE -- BALLOT TITLE -- JUDICIAL REVIEW. (1) After receiving a copy of the petition from the secretary of state as provided in section 34-1804, Idaho Code:

(a) The attorney general may confer with the petitioner and shall, within twenty (20) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate.

(b) The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part.

(c) The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state.

(2) Within fifteen (15) working days after the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, with the secretary of state for assignment of a ballot title, and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed.

(a) Within ten (10) working days after receiving copies of the petition, the attorney general shall provide ballot titles as provided for below in this subsection and return one (1) copy of the petition to the secretary of state, with its ballot title.

(b) A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with the approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred.

(c) The ballot titles shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures.

(d) The ballot title shall contain:

(i) Distinctive short title not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition.

(ii) A general title expressing in not more than two hundred (200) words the purpose of the measure.

(iii) The ballot title shall be printed with the numbers of the measure on the official ballot.

(e) In making the ballot title, the attorney general shall, to the best of his ability, give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure.

(3) Any person dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal ~~from his decision~~ to the supreme court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair.

(a) No appeal shall be allowed from the decision of the attorney general on a ballot title unless made within twenty (20) days after the ballot title is filed in the office of the secretary of state; provided however, that this section shall not prevent any later judicial proceeding to determine the sufficiency of such title, nor shall it prevent any judicial decision upon the sufficiency of such title.

(b) A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of the ballot title may be by mail, ~~telegraph~~ or facsimile electronic transmission and shall be made forthwith when it is received from the attorney general by the secretary of state.

(c) The supreme court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him.

(4) Any qualified elector of the state of Idaho may, at any time after the attorney general has issued a certificate of review, bring an action in the supreme court to determine the constitutionality of any initiative.

SECTION 17. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

CHAPTER 97
(H.B. No. 173)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-308, IDAHO CODE, TO REVISE PROVISIONS REGARDING MAIL BALLOT PRECINCTS.

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

SECTION 1. That Section 34-308, Idaho Code, be, and the same is hereby amended to read as follows:

34-308. MAIL BALLOT PRECINCT. (1) A precinct within the county which that contains no more than one hundred twenty-five forty (12540) registered electors at the last general election, may be designated by the board of county commissioners as a mail ballot precinct no later than April 1 in an even-numbered year. Such a designation shall apply thereafter to all elections conducted within the precinct until revoked by the board of county commissioners or until the precinct contains one hundred fifty-one (151) registered electors at the last general election. Having designated a mail ballot precinct, there shall be no voting place established within the precinct. Elections in a mail ballot precinct shall be conducted in a manner consistent with absentee voting with the ~~following~~ special provisions provided in this section.

(~~1~~2) The clerk shall issue a ballot, by mail, to every registered voter in a mail ballot precinct, and shall affix postage to the return envelope, ~~postage~~ sufficient to return the ballot.

(~~2~~3) The ballot shall be mailed no sooner than twenty-four (24) days prior to the election day and no later than the fourteenth day prior to the election.

(~~3~~4) The clerk shall make necessary provisions to segregate mail ballot precinct ballots by precinct, and, for all purposes of the election, the precinct integrity shall be maintained.

(~~4~~5) The clerk shall make registration available in the office of the clerk, ~~registration~~ on election day for any individual who is eligible to vote and who resides in a mail ballot precinct and has not previously registered. The clerk shall provide an official polling place in the office of the clerk, and a qualified elector who registers on election day and resides in a mail ballot precinct shall be allowed to vote at the office of the clerk.

(~~5~~6) (a) Except as provided in paragraph (b) of this subsection ~~(5)(b) of this section~~, electors who have designated a political party affiliation pursuant to section 34-404, Idaho Code, shall receive the primary election ballot for that party pursuant to sections 34-904 and 34-904A, Idaho Code.

(b) Electors who have designated a political party affiliation pursuant to section 34-404, Idaho Code, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2)(b), Idaho Code.

(~~6~~7) For "unaffiliated" electors, in order to receive a political party's primary election ballot, pursuant to section 34-904A, Idaho Code, the county clerk shall mail a ballot request form for the primary election ballot to the electors in a mail ballot precinct for the electors to use in selecting the party ballot they choose to receive.

(a) In the event that more than one (1) political party allows electors designated as "unaffiliated" to vote in their party's primary election

pursuant to section 34-904A, Idaho Code, an elector designated as "unaffiliated" shall indicate on the form such elector's choice of the political party's primary election ballot in order to vote in that party's primary election.

(b) In the event no more than one (1) political party allows electors designated as "unaffiliated" to vote in their party's primary election pursuant to section 34-904A, Idaho Code, an elector designated as "unaffiliated" shall indicate on the form that political party's primary election ballot in order to vote in that political party's primary election.

(c) If an elector designated as "unaffiliated" is not permitted to vote in a political party's primary election as provided for in section 34-904A, Idaho Code, such elector shall receive a nonpartisan ballot.

(d) If an elector designated as "unaffiliated" does not indicate on the form a choice of political party's primary election ballot, such elector shall receive a nonpartisan ballot.

Approved March 18, 2019

CHAPTER 98
(H.B. No. 186)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2019; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2019; REDUCING THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2019; PROVIDING FOR A CASH TRANSFER; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 105, Laws of 2018, and any other appropriation provided by law, there is hereby appropriated to the Division of Veterans Services the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Veterans Recognition Income			
Fund		\$800,000	\$800,000
Federal Grant			
Fund	\$1,200,000	0	1,200,000
TOTAL	\$1,200,000	\$800,000	\$2,000,000

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Division of Veterans Services in Section 1, Chapter 105, Laws of 2018, from the Miscellaneous Revenue Fund is hereby reduced by \$1,200,000 for personnel costs for the period July 1, 2018, through June 30, 2019.

SECTION 3. CASH TRANSFER. Notwithstanding the provisions of Section 65-703(2), Idaho Code, or any other provision of law to the contrary, there

is hereby appropriated and the administrator of the Division of Veterans Services shall request the State Controller to make a transfer or transfers from the Idaho Veterans Recognition Fund to the Idaho Veterans Recognition Income Fund in an amount not to exceed a total of \$800,000 for the purpose of providing the state's required match for the establishment of a fourth veterans home in north Idaho for the period July 1, 2018, through June 30, 2019. Further, notwithstanding the provisions of Section 65-704(5), Idaho Code, or any other provision of law to the contrary, any funds remaining in the Veterans Recognition Income Fund at the end of fiscal year 2019 shall remain in the Veterans Recognition Income Fund and shall not be transferred back to the Idaho Veterans Recognition Fund.

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

Approved March 18, 2019

CHAPTER 99
(H.B. No. 187)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission on Hispanic Affairs the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$136,900	\$86,900	\$223,800
Miscellaneous Revenue			
Fund	59,700	51,800	111,500
Federal Grant			
Fund	<u>0</u>	<u>35,000</u>	<u>35,000</u>
TOTAL	\$196,600	\$173,700	\$370,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Hispanic Affairs is authorized no more than three (3.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 100
(H.B. No. 211)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR A CASH TRANSFER; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,014,500	\$160,300		\$49,400	\$1,224,200
Veterans Recognition Income					
Fund		14,258,200		100,000	14,358,200
Miscellaneous Revenue					
Fund	12,716,000	2,611,500			15,327,500
Veterans Home Endowment Income					
Fund	194,000	617,600	\$206,600	1,500	1,019,700
Federal Grant					
Fund	<u>10,680,500</u>	<u>35,982,000</u>	<u>0</u>	<u>0</u>	<u>46,662,500</u>
TOTAL	\$24,605,000	\$53,629,600	\$206,600	\$150,900	\$78,592,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred forty-four (344.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CASH TRANSFER. Notwithstanding the provisions of Section 65-703(2), Idaho Code, or any other provision of law to the contrary, there is hereby appropriated and the administrator of the Division of Veterans Services shall request the State Controller to make a transfer or transfers from the Idaho Veterans Recognition Fund to the Idaho Veterans Recognition Income Fund in an amount not to exceed a total of \$14,258,200 for the purpose of providing the state's required match for the establishment of a fourth veterans home in north Idaho for the period July 1, 2019, through June 30, 2020. Further, notwithstanding the provisions of Section 65-704(5), Idaho Code, or any other provision of law to the contrary, any funds remaining in the Veterans Recognition Income Fund at the end of fiscal year 2020 shall

remain in the Veterans Recognition Income Fund and shall not be transferred back to the Idaho Veterans Recognition Fund.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Veterans Services any unexpended and unencumbered balances appropriated to the Division of Veterans Services from the Federal Grant Fund for a second veterans cemetery for fiscal year 2019, in an amount not to exceed \$7,496,100, to be used for nonrecurring expenditures related to the addition of a second veterans cemetery in southeastern Idaho for the period July 1, 2019, through June 30, 2020.

Approved March 18, 2019

CHAPTER 101
(H.B. No. 213)

AN ACT

RELATING TO THE APPROPRIATION TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS REGARDING TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION.

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

SECTION 1. There is hereby appropriated to the Soil and Water Conservation Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,248,800	\$224,900	\$26,600	\$1,253,200	\$2,753,500
Administration and Accounting Services					
Fund		30,000			30,000
Resource Conservation and Rangeland Development					
Fund	172,900	160,400			333,300
Clean Water Revolving Loan (SCC)					
Fund		30,000			30,000
Federal Grant					
Fund	279,200	11,100	0	0	290,300
TOTAL	\$1,700,900	\$456,400	\$26,600	\$1,253,200	\$3,437,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than twenty-one and seventy-five hundredths (21.75) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION. Of the amount appropriated in Section 1 of this act for trustee and benefit payments, \$100,000 shall be distributed equally between the fifty (50) soil and water conservation districts in addition to the amounts authorized under Section 22-2727, Idaho Code.

Approved March 18, 2019

CHAPTER 102
(H.B. No. 214)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of Energy and Mineral Resources the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery					
Fund	\$88,200	\$38,700	\$4,400		\$131,300
Renewable Energy Resources					
Fund	260,200	42,800			303,000
Miscellaneous Revenue					
Fund	10,100	10,100			20,200
Petroleum Price Violation					
Fund	252,500	159,300		\$58,000	469,800
Federal Grant					
Fund	<u>263,600</u>	<u>159,000</u>	<u>0</u>	<u>0</u>	<u>422,600</u>
TOTAL	\$874,600	\$409,900	\$4,400	\$58,000	\$1,346,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy and Mineral Resources is authorized no more than eight (8.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 103
(H.B. No. 216)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of Species Conservation the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$668,000	\$755,600		\$1,423,600
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>652,200</u>	<u>198,000</u>	<u>\$12,640,000</u>	<u>13,490,200</u>
TOTAL	\$1,320,200	\$968,600	\$12,640,000	\$14,928,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than fourteen (14.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 104
(S.B. No. 1143)

AN ACT

RELATING TO THE APPROPRIATION TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Lava Hot Springs Foundation the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Lava Hot Springs Foundation				
Fund	\$1,374,400	\$740,700	\$90,000	\$2,205,100
Lava Hot Springs Capital Improvement				
Fund	<u>0</u>	<u>0</u>	<u>300,000</u>	<u>300,000</u>
TOTAL	\$1,374,400	\$740,700	\$390,000	\$2,505,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than fifteen and eight-tenths (15.80) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 105
(S.B. No. 1144)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission of Pardons and Parole the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$2,789,000	\$637,700	\$3,426,700
Miscellaneous Revenue			
Fund	<u>0</u>	<u>70,700</u>	<u>70,700</u>
TOTAL	\$2,789,000	\$708,400	\$3,497,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission of Pardons and Parole is authorized no more than thirty-seven (37.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 106
(S.B. No. 1147)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING FOR THE CONTINUOUS APPROPRIATION OF DAMAGES AWARDED FROM THE MORTGAGE RECOVERY FUND.

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

SECTION 1. There is hereby appropriated to the Department of Finance the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$6,476,200	\$2,237,600	\$121,000	\$8,834,800
Mortgage Recovery				
Fund		50,000		50,000
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$6,526,200	\$2,287,600	\$121,000	\$8,934,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-three (63.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION AUTHORITY. The Department of Finance is hereby granted continuous appropriation authority for reimbursement of persons to whom the Idaho courts have made a final determination of actual damages resulting from acts constituting violations of the Idaho Residential Mortgage Practices Act by a mortgage broker, mortgage lender, or mortgage loan originator who was licensed or required to be licensed pursuant to Section 26-31-109, Idaho Code.

Approved March 18, 2019

CHAPTER 107
(S.B. No. 1148)

AN ACT

RELATING TO THE APPROPRIATION TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Board of Tax Appeals the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2019, through June 30, 2020:

FOR:

Personnel Costs	\$534,600
Operating Expenditures	<u>101,000</u>
TOTAL	\$635,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 108
(S.B. No. 1149)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AMENDING SECTION 61-215, IDAHO CODE, TO INCREASE THE SALARIES OF THE PUBLIC UTILITIES COMMISSIONERS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$219,300		\$219,300
Public Utilities Commission				
Fund	\$4,259,400	1,752,600	\$70,400	6,082,400
Federal Grant				
Fund	<u>263,600</u>	<u>69,200</u>	<u>0</u>	<u>332,800</u>
TOTAL	\$4,523,000	\$2,041,100	\$70,400	\$6,634,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 2018~~9~~, the annual salary of members of the public utilities commission shall be one hundred ~~six~~ ten thousand ~~eight hundred sixty-eight~~ seventy-four dollars (~~\$106,868~~110,074) and shall be paid from sources set by the legislature.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Public Utilities Commission any unexpended and unencumbered balances appropriated to the Public Utilities Commission from the Public Utilities Commission Fund for the Chinden Campus relocation for fiscal year 2019, in an amount not to exceed \$2,419,300 from the Public Utilities Commission Fund, to be used for nonrecurring expenditures related to the Chinden Campus relocation for the period July 1, 2019, through June 30, 2020.

Approved March 18, 2019

CHAPTER 109
(S.B. No. 1150)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Insurance Administrative Fund	\$4,663,300	\$3,068,100	\$83,000	\$7,814,400
Federal Grant Fund	<u>287,100</u>	<u>398,100</u>	<u>0</u>	<u>685,200</u>
TOTAL	\$4,950,400	\$3,466,200	\$83,000	\$8,499,600
II. STATE FIRE MARSHAL:				
FROM:				
Arson, Fire and Fraud Prevention Fund	\$825,900	\$342,000	\$109,500	\$1,277,400
GRAND TOTAL	\$5,776,300	\$3,808,200	\$192,500	\$9,777,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-one and five-tenths (71.50) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 2019

CHAPTER 110
(S.B. No. 1141)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REQUIREMENTS FOR THE PAYMENT OF OUTSIDE COUNSEL COSTS; AND PROVIDING REQUIREMENTS FOR THE PAYMENT OF CAPITAL REPRESENTATION COSTS.

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

SECTION 1. There is hereby appropriated to the State Appellate Public Defender the following amounts to be expended according to the designated programs and expense classes from the listed fund for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER:				
FROM:				
General				
Fund	\$2,463,600	\$249,100	\$9,300	\$2,722,000
II. CAPITAL AND CONFLICT REPRESENTATION:				
FROM:				
General				
Fund		\$302,400		\$302,400
GRAND TOTAL	\$2,463,600	\$551,500	\$9,300	\$3,024,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Appellate Public Defender is authorized no more than twenty-four (24.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. OUTSIDE COUNSEL COSTS. Of the amount appropriated in Section 1 of this act, \$207,500 from the General Fund, or so much thereof as is necessary, shall be used solely to pay outside counsel for noncapital appeals in which a conflict of interest is identified and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, capital representation costs and the operating, personnel, and capital outlay costs of the Office of the State Appellate Public Defender Program. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION 4. CAPITAL REPRESENTATION COSTS. Of the amount appropriated in Section 1 of this act, \$94,900 from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, outside counsel costs of noncapital appeals and the operating, personnel, and capital outlay costs of the Office of the State Appellate Public Defender Program. Such costs may include, but are not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions; investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; outside counsel in the event of a conflict of interest; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

Approved March 19, 2019

CHAPTER 111
(S.B. No. 1158)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC DEFENSE COMMISSION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE PUBLIC DEFENSE COMMISSION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REAPPROPRIATION AUTHORITY; PROVIDING REQUIREMENTS REGARDING THE ALLOCATION OF TRUSTEE AND BENEFIT PAYMENTS; AND PROVIDING REQUIREMENTS REGARDING ENCUMBRANCES.

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

SECTION 1. There is hereby appropriated to the Public Defense Commission the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2019, through June 30, 2020:

FOR:

Personnel Costs	\$649,800
Operating Expenditures	257,400
Capital Outlay	5,100
Trustee and Benefit Payments	<u>10,585,700</u>
TOTAL	\$11,498,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Defense Commission is authorized no more than seven (7.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Public Defense Commission any unexpended balances appropriated to the Public Defense Commission for extraordinary litigation costs for fiscal year 2019, in an amount not to exceed \$423,100 in trustee and benefit payments, to be used for nonrecurring expenditures related to extraordinary litigation costs for the period July 1, 2019, through June 30, 2020.

SECTION 4. ALLOCATION OF TRUSTEE AND BENEFIT PAYMENTS. Of the amount appropriated as trustee and benefit payments in Section 1, or reappropriated in Section 3, of this act, no more than \$10,012,600 shall be expended for financial assistance to counties pursuant to Sections 19-862A and 19-851(8), Idaho Code; no more than \$150,000 shall be expended to incentivize the establishment of joint public defender offices pursuant to Section 19-862A(3), Idaho Code; and no more than \$846,200 shall be expended for extraordinary litigation costs pursuant to Section 19-850(2)(e), Idaho Code. Any remaining unexpended amounts not so used shall revert to the General Fund.

SECTION 5. ENCUMBRANCES. Notwithstanding any other provision of law to the contrary, the Public Defense Commission shall not transfer or encumber amounts appropriated as trustee and benefit payments in Section 1, or reappropriated in Section 3, of this act.

Approved March 19, 2019

CHAPTER 112
(H.B. No. 112)

AN ACT

RELATING TO INVESTMENTS BY AN INSURER; AMENDING SECTION 41-705, IDAHO CODE, TO PROVIDE THAT A RECORD OF INVESTMENTS MADE BY INSURERS SHALL INCLUDE CERTAIN INFORMATION, TO PROVIDE AN EXCEPTION, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-728, IDAHO CODE, TO REVISE PROVISIONS REGARDING REAL ESTATE; AND AMENDING SECTION 41-735, IDAHO CODE, TO REVISE PROVISIONS REGARDING MISCELLANEOUS INVESTMENTS.

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

SECTION 1. That Section 41-705, Idaho Code, be, and the same is hereby amended to read as follows:

41-705. RECORD OF INVESTMENTS. (1) The insurer shall make a written record in permanent form showing the authorization as to each investment or loan of its funds, which record shall be signed by an officer of the insurer or by the chairman of the committee authorizing or approving the investment or loan.

(2) As to each such investment or loan, the insurer's record shall contain:

(a) In the case of loans: The name of the borrower; the location of the property; a physical description, and the appraised value of the security; the amount of the loan, rate of interest and terms of repayment.

(b) In the case of securities: The name of the obligor; a description of the security; the amount invested, the rate of interest or dividend, the maturity and yield based upon the purchase price.

(c) In the case of real estate: The location and legal description of the property; a physical description and the appraised value; the purchase price and terms.

(d) In the case of all investments:

(i) The amount of expenses and commissions ~~if any directly~~ incurred on account of any investment or loan and by whom and to whom payable if not covered by contracts with mortgage loan representatives or correspondents which are part of the insurer's records.

(ii) The name of any officer or director of the insurer ~~having any with an interest in the investment and the nature of the interest.~~ For purposes of this subparagraph, an officer or a director of an insurer has an interest in an investment if:

1. The insurer acquires or sells the investment directly or indirectly from or to the officer or director; or

2. The officer or director holds a direct, an indirect, or a contingent interest in the securities or loan representing the investment, or in the assets of the person in whose behalf the investment or loan is made, and the nature of such interest.

This paragraph shall not apply to an investment by an officer or a director in common stock, preferred stock, or bonds of a United States publicly traded corporation if the director or officer's interest in such publicly traded corporation constitutes less than one percent (1%) of the corporation's total outstanding stock or bonds, in exchange-traded common stock funds or bond funds if listed on a United States regulated exchange, or in mutual funds registered with the securities and exchange commission.

SECTION 2. That Section 41-728, Idaho Code, be, and the same is hereby amended to read as follows:

41-728. REAL ESTATE. (1) An insurer may acquire, invest in, own, maintain, alter, furnish, improve, manage, lease and convey the following real estate only:

(a) Land and buildings used for home office purposes, including contiguous parcels intended for future home office or corporate campus expansion, together with such other real estate as is required for its accommodation in the convenient transaction of its business.

(b) Real estate acquired in satisfaction in full or in part of or through foreclosure of or judgment obtained upon, loans, mortgages, liens or other evidences of indebtedness previously owing to the insurer in the regular course of its business.

(c) Real estate acquired in part payment of the consideration in the sale of other real estate owned by the insurer.

(d) Real estate acquired by gift or devise.

(e) Real estate acquired through a lawful merger or consolidation of another insurer and not required for its accommodation as provided in paragraph (a) of this subsection.

(f) Real estate for the production of income, under lease, or being constructed under a definite agreement providing for lease, to solvent institutions for commercial or industrial purposes, other than primarily for agricultural, horticultural, ranch, mining, mineral, oil, recreational, amusement, club, motel, or hotel purposes.

(g) Real estate subject to a plan of development other than primarily for agricultural, horticultural, ranch, mining, mineral, oil, recreational, amusement, club, motel, or hotel purposes as limited by subsection (2) (c) of this section.

(2) The aggregate amount so invested by the insurer shall not exceed:

(a) If for home office and its other purposes pursuant to subsection (1) (a) of this section, ~~ten~~ fifteen percent (105%) of the insurer's assets, subject to the right of the director to approve an additional amount after hearing and for good cause shown.

(b) If for income purposes pursuant to subsection (1) (f) of this section, ten percent (10%) of the insurer's admitted assets.

(c) If for properties subject to a plan of development pursuant to subsection (1) (g) of this section, not more than five percent (5%) of its admitted assets of which not more than two percent (2%) of its admitted assets may be in any one (1) parcel or group of contiguous parcels. The director may disapprove the property as an admitted asset if the plan of development is not being pursued in good faith. Factors for review may include, but are not limited to, progress with regard to zoning, roads, utilities, plats and completed development by the insurer of properties.

(d) In all categories and for all purposes, not to exceed twenty percent (20%) of the insurer's assets.

(3) An insurer may lease to others part of real property otherwise occupied by it for home office and other purposes under subsection (1) (a) of this section, but the value of the entire property must be included for the purposes of the limitation upon aggregate real estate investments provided in subsection (2) (a) of this section.

SECTION 3. That Section 41-735, Idaho Code, be, and the same is hereby amended to read as follows:

41-735. MISCELLANEOUS INVESTMENTS. (1) An insurer may loan or invest its funds in ~~an aggregate amount not exceeding the lesser of the following sums: five per cent (5%) of its assets, or fifty per cent (50%) of its surplus over its capital and other liabilities, or if a mutual or reciprocal insurer fifty per cent (50%) of its surplus over minimum required surplus, in kinds of loans or investments not otherwise specifically made eligible for investment and not specifically prohibited or made ineligible by this or other provisions of the Idaho Code~~ in an aggregate amount not exceeding the lesser of ten percent (10%) of an insurer's assets, or seventy-five percent (75%) of an insurer's capital and surplus excluding surplus notes. Investments under this subsection are limited to five percent (5%) of an insurer's assets in a single investment or in a single entity, its affiliates, and subsidiaries as defined by the first six (6) digits of the committee on uniform security identification procedures (CUSIP) number.

(2) The insurer shall keep a separate record of all investments acquired under this section.

Approved March 19, 2019

CHAPTER 113
(H.B. No. 124)

AN ACT

RELATING TO THE MILITARY; AMENDING SECTION 46-1102, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE MODEL STATE CODE OF MILITARY JUSTICE.

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

SECTION 1. That Section 46-1102, Idaho Code, be, and the same is hereby amended to read as follows:

46-1102. MODEL STATE CODE OF MILITARY JUSTICE. The "Model State Code of Military Justice" is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

MODEL STATE CODE OF MILITARY JUSTICE

PART I. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS -- GENDER NEUTRALITY

(a) In this act, unless the context otherwise requires:

- (1) ~~The term "accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;~~
- ~~(2) The term "cadet," "candidate," or "midshipman" means a person who is enrolled in or attending the United States military academy, the United States air force academy, the United States coast guard academy, officer candidate school, a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the state military forces;~~
- ~~(3) The term "classified information" means:~~
- ~~(A) Any information or material that has been determined by an official of the United States or any state pursuant to law, an executive order, or regulation to require protection against unauthorized disclosure for reasons of national or state security; and~~
- ~~(B) Any restricted data, as defined in section 11(y) of the atomic energy act of 1954, 42 U.S.C. section 2014(y);~~
- ~~(4) The term "code" means this act;~~
- ~~(5) The term "commanding officer" includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment under article 15 of this code. The term "commander" has the same meaning as "commanding officer" unless the context otherwise requires;~~
- ~~(6) The term "convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command to the convening authority;~~
- ~~(7) The term "day" means calendar day and is not synonymous with the term "unit training assembly." Any punishment authorized by this article which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean succeeding duty days;~~
- ~~(8) The term "duty status other than state active duty" means any other type of duty not in federal service and not full-time duty in the active~~

service of the state, under an order issued by authority of law and includes travel to and from such duty;

~~(9) The term "enlisted member" means a person in an enlisted grade;~~

(103) The term "judge advocate" means a commissioned officer of the organized state military forces who is a member in good standing of the bar of the highest court of a state and is:

(A) Certified or designated as a judge advocate in the judge advocate general's corps of the army, air force, navy, or the marine corps or designated as a law specialist as an officer of the coast guard, or a reserve component of one (1) of these; or

(B) Certified as an a nonfederally recognized judge advocate, under regulations promulgated pursuant to this provision, by the senior judge advocate of the commander of the force in the state military forces of which the accused is a member, as competent to perform such military justice duties required by this code. If there is no such judge advocate available, then such certification may be made by such senior judge advocate of the commander of another force in the state military forces, as the convening authority directs;

~~(11) The term "may" is used in a permissive sense. The phrase "no person may..." means that no person is required, authorized or permitted to do the act prescribed;~~

~~(12) The term "military court" means a court-martial or a court of inquiry;~~

~~(13) The term "military judge" means an official of a general or special court-martial detailed in accordance with article 26 of this code;~~

~~(14) The term "military offenses" means those offenses prescribed under articles 77 (Principals), 78 (Accessory after the fact), 80 (Attempts), 81 (Conspiracy), 82 (Solicitation), 83 (Fraudulent enlistment, appointment, or separation), 84 (Unlawful enlistment, appointment, or separation), 85 (Desertion), 86 (Absence without leave), 87 (Missing movement), 88 (Contempt toward officials), 89 (Disrespect towards superior commissioned officer), 90 (Assaulting or willfully disobeying superior commissioned officer), 91 (Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer), 92 (Failure to obey order or regulation), 93 (Cruelty and maltreatment), 94 (Mutiny or sedition), 95 (Resistance, flight, breach of arrest, and escape), 96 (Releasing prisoner without proper authority), 97 (Unlawful detention), 98 (Noncompliance with procedural rules), 99 (Misbehavior before the enemy), 100 (Subordinate compelling surrender), 101 (Improper use of countersign), 102 (Forcing a safeguard), 103 (Captured or abandoned property), 104 (Aiding the enemy), 105 (Misconduct as prisoner), 107 (False official statements), 108 (Military property -- Loss, damage, destruction, or wrongful disposition), 109 (Property other than military property -- Waste, spoilage, or destruction), 110 (Improper hazarding of vessel), 112 (Drunk on duty), 112a. (Wrongful use, possession, etc., of controlled substances), 113 (Misbehavior of sentinel), 114 (Dueling), 115 (Malingering), 116 (Riot or breach of peace), 117 (Provoking speeches or gestures), 132 (Frauds against the government), 133 (Conduct unbecoming an officer and a gentleman), and 134 (General article) of this code;~~

~~(15) The term "national security" means the national defense and foreign relations of the United States;~~

~~(16) The term "officer" means a commissioned or warrant officer;~~

~~(17) The term "officer in charge" means a member of the naval militia, the navy, the marine corps, or the coast guard designated as such by appropriate authority;~~

~~(18) The term "record," when used in connection with the proceedings of a court-martial, means:~~

- ~~(A) An official written transcript, written summary or other writing relating to the proceedings; or~~
~~(B) An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced;~~
- ~~(19) "Shall" is used in an imperative sense;~~
(204) "State" means one of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands;
(215) "State active duty" means full-time duty in the state military forces under an order of the governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from such duty;
(226) "Senior force judge advocate" means the senior judge advocate of the commander of the same force of the state military forces as the accused and who is that commander's chief legal advisor;
(237) "State military forces" means the national guard of the state of Idaho, as defined in title 32, United States Code, the organized naval militia of the state, and any other military force organized under the constitution and laws of the state of Idaho, not to include the unorganized militia, when not in a status subjecting them to exclusive jurisdiction under 10 U.S.C. chapter 47. The unorganized militia, state defense force, state national guard, home guard or any other name of any state force that does not meet this definition shall not be part of the "state military forces" under this code;
~~(24) The term "superior commissioned officer" means a commissioned officer superior in rank or command;~~
(258) "Senior force commander" means the commander of the same force of the state military forces as the accused;
(9) "Commanding officer" means only commissioned officers;
(10) "Superior commissioned officer" means a commissioned officer superior in rank, grade, or command;
(11) "Military" means any or all of the state military forces;
(12) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;
(13) "Military judge" means an official of a general or special court-martial detailed in accordance with article 26;
(14) "Legal officer" means any commissioned officer designated as a judge advocate to perform legal duties for a command;
(15) "Record," when used in connection with the proceedings of a court-martial, means:
 (A) An official written transcript, written summary, or other writing relating to the proceedings; or
 (B) An official audiotape, videotape, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced;
- (16) "Classified information" means:
 (A) Any information or material that has been determined by an official of the United States pursuant to law, an executive order, or regulation to require protection against unauthorized disclosure for reasons of national security; and
 (B) Any restricted data, as defined in section 11(y) of the atomic energy act of 1954, 42 U.S.C. 2014 (y) ;
- (17) "National security" means the national defense and foreign relations of the United States;
(18) "Military offenses" means those offenses prescribed under articles 77 through 117, 123, 124a, 124b, and 131b through 134.

(b) The use of the masculine gender throughout this code shall also include the feminine gender.

ARTICLE 2. PERSONS SUBJECT TO THIS CODE -- JURISDICTION

(a) This code applies to all members of the state military forces when serving in a title 32 status or state active duty status as defined in article 1(a) (235) of this code. This code does not apply to members serving in a title 10 status or members of the unorganized militia as defined in section 46-102, Idaho Code.

(b) Subject matter jurisdiction is established if a nexus exists between an offense, either military or nonmilitary, and the state military force, regardless of duty status. Courts-martial convened by the governor or his designated representative have primary jurisdiction of military offenses as defined in article 1(a) (148) of this code. A proper civilian court has primary jurisdiction of a nonmilitary offense when an act or omission violates both this code and local criminal law, foreign or domestic. In such a case, a court-martial may be initiated only after the civilian authority has declined to prosecute or dismissed the charge, provided jeopardy has not attached. Jurisdiction over attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be determined by the underlying offense.

ARTICLE 3. JURISDICTION TO TRY CERTAIN PERSONNEL

~~(a) Each person discharged from the state military forces who is later charged with having fraudulently obtained a discharge is, subject to article 43 of this code, subject to trial by court-martial on that charge and is, after apprehension, subject to this code while in custody under the direction of the state military forces for that trial. Upon conviction of that charge that person is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge~~ Subject to article 43, a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.

~~(b) No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service~~ Each person discharged from the state military forces who is later charged with having fraudulently obtained his discharge is, subject to article 43, subject to trial by court-martial on that charge and is, after apprehension, subject to this chapter while in the custody of the state military forces for that trial. Upon conviction of that charge, he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

~~(c) No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.~~

~~(d) A member of the state military forces who is subject to this chapter is not, by virtue of the termination of a period of active duty for training or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.~~

ARTICLE 4. RESERVED DISMISSED OFFICER'S RIGHT TO TRIAL BY COURT-MARTIAL

(a) If any commissioned officer, dismissed by order of the governor or his designated representative, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully

dismissed, the governor or his designated representative, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, the adjutant general shall substitute for the dismissal ordered by the governor or his designated representative a form of discharge authorized for administrative issue.

(b) If the governor or his designated representative fails to convene a general court-martial within six (6) months from the presentation of an application for trial under this article, the adjutant general shall substitute for the dismissal ordered by the governor or his designated representative a form of discharge authorized for administrative issue.

(c) If a discharge is substituted for a dismissal under this article, the governor or his designated representative alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor or his designated representative, that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the governor or his designated representative may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

(d) If an officer is discharged from any armed force by administrative action or is dropped from the rolls by order of the governor or his designated representative, he has no right to trial under this article.

ARTICLE 5. TERRITORIAL APPLICABILITY OF THE CODE

(a) This code has applicability at all times and in all places subject to the personal jurisdiction as provided in article 2 of this code, or, if not in a duty status, that there is a nexus between the act or omission constituting the offense and the efficient functioning of the state military forces; however, this grant of military jurisdiction shall neither preclude nor limit civilian jurisdiction over an offense, which is limited only by the prohibition of double jeopardy.

(b) Courts-martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

ARTICLE 6. JUDGE ADVOCATES AND LEGAL OFFICERS

(a) The senior force judge advocates in each of the state's military forces or that judge advocate's delegates shall make frequent inspections in the field in supervision of the administration of military justice in that force.

(b) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice. The staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the state judge advocate.

~~(c) No person who has acted as member, military judge, trial counsel, defense counsel, or investigating officer, or who has been a witness, in any case may later act as a judge advocate to any reviewing authority upon the same case.~~

(c) (1) No person who, with respect to a case, serves in a capacity specified in paragraph (2) of this subsection, may later serve as a staff judge advocate or legal officer to any reviewing or convening authority upon the same case.

(2) The capacities referred to in paragraph (1) of this subsection are, with respect to the case involved, any of the following:

(A) Preliminary hearing officer, court member, military judge, military magistrate, or appellate judge; or

(B) Counsel who have acted in the same case or appeared in any proceeding before a military judge, military magistrate, preliminary hearing officer, or appellate court.

ARTICLE 6a. RESERVED INVESTIGATION AND DISPOSITION OF MATTERS PERTAINING TO THE FITNESS OF MILITARY JUDGES

(a) The governor or his designee shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military appellate judge, military judge, or military magistrate to perform the duties of the position involved.

(b) The governor or his designee shall transmit a copy of the procedures prescribed pursuant to this article to the appropriate committees of the Idaho senate and Idaho house of representatives.

ARTICLE 6b. RIGHTS OF THE VICTIM OF AN OFFENSE UNDER THIS CODE

(a) A victim of an offense under this code has the following rights:

(1) The right to be reasonably protected from the accused.

(2) The right to reasonable, accurate, and timely notice of any of the following:

(A) A public hearing concerning the continuation of confinement prior to trial of the accused;

(B) A preliminary hearing under article 32 relating to the offense;

(C) A court-martial relating to the offense;

(D) A public proceeding of the service clemency and parole board relating to the offense; and

(E) The release or escape of the accused, unless such notice may endanger the safety of any person.

(3) The right not to be excluded from any public hearing or proceeding described in paragraph (2) of this subsection unless the military judge or preliminary hearing officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this chapter would be materially altered if the victim heard other testimony at that hearing or proceeding.

(4) The right to be reasonably heard at any of the following:

(A) A public hearing concerning the continuation of confinement prior to trial of the accused;

(B) A sentencing hearing relating to the offense; and

(C) A public proceeding of the service clemency and parole board relating to the offense.

(5) The reasonable right to confer with the counsel representing the government at any proceeding described in paragraph (2) of this subsection.

(6) The right to receive restitution as provided in law.

(7) The right to proceedings free from unreasonable delay.

(8) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this code.

(b) In this article, "victim of an offense under this code" means an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under this code.

(c) In the case of a victim of an offense under this code who is under eighteen (18) years of age but who is not a member of the state military forces, incompetent, incapacitated, or deceased, the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this article.

(d) Enforcement by the Idaho state courts:

(1) If the victim of an offense under this chapter believes that an article 32 preliminary hearing ruling or a court-martial ruling violates the rights of the victim afforded by the provisions of this article, including provisions specified in subsection (a) (4) of this article, the victim may petition the Idaho state courts in accordance with the applicable rules of procedure of the Idaho state courts for a writ of mandamus to require the preliminary hearing officer or the court-martial to comply with the provisions of this article.

(2) Paragraph (1) of this subsection applies with respect to the protections afforded by the following:

(A) The provisions of this article;

(B) Military rule of evidence 513, relating to the psychotherapist-patient privilege;

(C) Military rule of evidence 514, relating to the victim advocate-victim privilege; and

(D) Military rule of evidence 615, relating to the exclusion of witnesses.

(e) Upon notice by counsel for the government to counsel for the accused of the name of an alleged victim of an offense under this article who counsel for the government intends to call as a witness at a proceeding under this article, counsel for the accused shall make any request to interview the victim through the special victims' counsel or other counsel for the victim, if applicable.

(f) If requested by an alleged victim who is subject to a request for interview under subsection (e) of this article, any interview of the victim by counsel for the accused shall take place only in the presence of the counsel for the government, a counsel for the victim, or, if applicable, a victim advocate.

PART II. APPREHENSION AND RESTRAINT

ARTICLE 7. APPREHENSION

(a) Apprehension is the taking of a person into custody.

(b) Any person authorized by this code or by 10 U.S.C. chapter 47, or by regulations issued under either, to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer or civil officer having authority to apprehend offenders under the laws of the United States or of a state, including, but not limited to, section 46-1103, Idaho Code, may do so upon probable cause that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, petty officers, and non-commissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

(d) If an offender is apprehended outside the state, the offender's return to the area must be in accordance with normal extradition procedures or by reciprocal agreement.

(e) No person authorized by this article to apprehend persons subject to this code or the place where such offender is confined, restrained, held, or otherwise housed may require payment of any fee or charge for so receiving, apprehending, confining, restraining, holding, or otherwise housing a person except as otherwise provided by law.

ARTICLE 8. RESERVED APPREHENSION OF DESERTERS

Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, commonwealth, possession, or the District of Columbia may summarily apprehend a deserter from the state military forces and deliver him into the custody of those forces.

ARTICLE 9. IMPOSITION OF RESTRAINT

(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of the commanding officer's command or subject to the commanding officer's authority into arrest or confinement.

(c) A commissioned officer, a warrant officer, or a civilian subject to this code or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority the person is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(d) No person may be ordered into arrest or confinement except for probable cause.

(e) This article does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

ARTICLE 10. RESTRAINT OF PERSONS CHARGED WITH OFFENSES

~~Any person subject to this code charged with an offense under this code may be ordered into arrest or confinement, as circumstances may require. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform the person of the specific wrong of which the person is accused and diligent steps shall be taken to try the person or to dismiss the charges and release the person~~

(a) In general.

(1) Subject to paragraph (2) of this subsection, any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.

(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

(b) Notification to accused and related procedures.

(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken:

(A) To inform the person of the specific offense of which the person is accused; and

(B) To try the person or to dismiss the charges and release the person.

(2) To facilitate compliance with paragraph (1) of this subsection, the governor or his designee shall prescribe regulations setting forth procedures relating to referral for trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under article 32.

ARTICLE 11. PLACE OF CONFINEMENT -- REPORTS AND RECEIVING OF PRISONERS

(a) If a person subject to this code is confined before, during, or after trial, confinement shall be in a civilian or military confinement facility.

(b) No person authorized to receive prisoners pursuant to subsection (a) of this article may refuse to receive or keep any prisoner committed to the person's charge by a commissioned officer of the state military forces, when the committing officer furnishes a statement, signed by such officer, of the offense charged against the prisoner, unless otherwise authorized by law.

(c) Every person authorized to receive prisoners pursuant to subsection (a) of this article to whose charge a prisoner is committed shall, within twenty-four (24) hours after that commitment or as soon as the person is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner, and the name of the person who ordered or authorized the commitment.

ARTICLE 12. CONFINEMENT WITH ENEMY PRISONERS PROHIBITED

No member of the state military forces may be placed in military confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces. This article shall not apply to confinement of state military forces in civilian confinement facilities.

ARTICLE 13. PUNISHMENT PROHIBITED BEFORE TRIAL

No person, while being held for trial or awaiting a verdict, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against the person, nor shall the arrest or confinement imposed upon such person be any more rigorous than the circumstances required to ensure the person's presence.

ARTICLE 14. DELIVERY OF OFFENDERS TO CIVIL AUTHORITIES

(a) A person subject to this code accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial or confinement.

(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for the offense shall, upon the request of competent military authority, be returned to the place of original custody for the completion of the person's sentence.

PART III. NONJUDICIAL PUNISHMENT

ARTICLE 15. COMMANDING OFFICER'S NONJUDICIAL PUNISHMENT

(a) Under such regulations as prescribed, any commanding officer (and for purposes of this article, officers-in-charge) may impose disciplinary punishments for minor offenses without the intervention of a court-martial pursuant to this article. The governor, the adjutant general, or an officer of a general or flag rank in command may delegate the powers under this article to a principal assistant who is a member of the state military forces.

(b) Any commanding officer may impose upon enlisted members of the officer's command:

- (1) An admonition;
- (2) A reprimand;
- (3) The withholding of privileges for not more than six (6) months;
- (4) The forfeiture of pay of not more than seven (7) days' pay;
- (5) A fine of not more than seven (7) days' pay;
- (6) A reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;
- (7) Extra duties, including fatigue or other duties, for not more than fourteen (14) days, which need not be consecutive; and
- (8) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen (14) days, which need not be consecutive.

(c) Any commanding officer of the grade of major or lieutenant commander, or above, may impose upon enlisted members of the officer's command:

- (1) Any punishment authorized in subsection (b) (1), (2) and (3) of this article;
- (2) The forfeiture of not more than one-half (1/2) of one (1) month's pay per month for two (2) months;
- (3) A fine of not more than one (1) month's pay;
- (4) A reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two (2) pay grades;
- (5) Extra duties, including fatigue or other duties, for not more than forty-five (45) days, which need not be consecutive; and
- (6) Restriction to certain specified limits, with or without suspension from duty, for not more than sixty (60) days, which need not be consecutive.

(d) The governor, the adjutant general, an officer exercising general court-martial convening authority, or an officer of a general or flag rank in command may impose:

- (1) Upon officers of the officer's command:
 - (A) Any punishment authorized in subsection (c) (1), (2), (3) and (6) of this article; and
 - (B) Arrest in quarters for not more than thirty (30) days, which need not be consecutive.
- (2) Upon enlisted members of the officer's command:
 - (A) Any punishment authorized in subsection (c) of this article.

(e) Whenever any of those punishments are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this article.

(f) Except in the case of a member attached to or embarked in a vessel, punishment under this article may not be imposed on any member under this article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment.

(g) The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The officer also may:

- (1) Mitigate reduction in grade to forfeiture of pay;
- (2) Mitigate arrest in quarters to restriction; or
- (3) Mitigate extra duties to restriction.

The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

(h) A person punished under this article who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within fifteen (15) days after the punishment is either announced or sent to the accused, as the commander may determine. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (g) of this article by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority that is to act on the appeal may refer the case to a judge advocate for consideration and advice.

(i) The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(j) Whenever a punishment of forfeiture of pay is imposed under this article, the forfeiture may apply to pay accruing before, on, or after the date that punishment is imposed.

(k) Regulations may prescribe the form of records to be kept of proceedings under this article and may prescribe that certain categories of those proceedings shall be in writing.

PART IV. COURT-MARTIAL JURISDICTION

ARTICLE 16. COURTS-MARTIAL CLASSIFIED

The three (3) kinds of courts-martial in the state military forces are:

- (1) General courts-martial, consisting of:
 - (A) A military judge and not less than five (5) members; or
 - (B) Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves;
- (2) Special courts-martial, consisting of:
 - (A) A military judge and not less than three (3) members; or

- (B) Only a military judge, if one ~~(1)~~ has been detailed to the court, and the accused under the same conditions as those prescribed in subsection (1) (B) of this article so requests; and
- (3) Summary courts-martial, consisting of one (1) commissioned officer.

ARTICLE 17. JURISDICTION OF COURTS-MARTIAL IN GENERAL

Each component of the state military forces has court-martial jurisdiction over all members of the particular component who are subject to this code. Additionally, the army and air national guard state military forces have court-martial jurisdiction over all members subject to this code.

ARTICLE 18. JURISDICTION OF GENERAL COURTS-MARTIAL

Subject to article 17 of this code, general courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under such limitations as the governor may prescribe, adjudge any punishment not forbidden by this code.

ARTICLE 19. JURISDICTION OF SPECIAL COURTS-MARTIAL

Subject to article 17 of this code, special courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under such limitations as the governor may prescribe, adjudge any punishment not forbidden by this code except dishonorable discharge, dismissal, confinement for more than one (1) year, forfeiture of pay exceeding two-thirds (2/3) pay per month, or forfeiture of pay for more than one (1) year.

ARTICLE 20. JURISDICTION OF SUMMARY COURTS-MARTIAL

(a) Subject to article 17 of this code, summary courts-martial have jurisdiction to try persons subject to this code, except officers, cadets, candidates, and midshipmen, for any offense made punishable by this code under such limitations as the governor may prescribe.

(b) No person in the rank of E-7 or above may be brought to trial before a summary court-martial if that person objects thereto. If objection to trial by summary court-martial is made by an accused in the rank of E-7 or above, trial by special or general court-martial may be ordered, as may be appropriate. Members in the rank of E-6 and below do not have the right to reject trial before a summary court-martial. Summary courts-martial may, under such limitations as the governor may prescribe, adjudge any punishment not forbidden by this code except dismissal, dishonorable or bad-conduct discharge, confinement for more than one (1) month, restriction to specified limits for more than two (2) months, or forfeiture of more than two-thirds (2/3) of one (1) month's pay.

(c) A summary court-martial is a noncriminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.

ARTICLE 21. RESERVED

PART V. APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

ARTICLE 22. WHO MAY CONVENE GENERAL COURTS-MARTIAL

(a) General courts-martial may be convened by:

- (1) The governor;
- (2) The adjutant general;
- (3) The commanding officer of a force of the state military forces;
- (4) The commanding officer of a division or a separate brigade; or
- (5) The commanding officer of a separate wing.

(b) If any such commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.

ARTICLE 23. WHO MAY CONVENE SPECIAL COURTS-MARTIAL

(a) Special courts-martial may be convened by:

- (1) Any person who may convene a general court-martial;
- (2) The commanding officer of a garrison, fort, post, camp, station, air national guard base, or naval base or station;
- (3) The commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the army;
- (4) The commanding officer of a wing, group, separate squadron, or corresponding unit of the air force; or
- (5) The commanding officer or officer in charge of any other command when empowered by the adjutant general.

(b) If any such officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.

ARTICLE 24. WHO MAY CONVENE SUMMARY COURTS-MARTIAL

(a) Summary courts-martial may be convened by:

- (1) Any person who may convene a general or special court-martial;
- (2) The commanding officer of a detached company or other detachment, or corresponding unit of the army;
- (3) The commanding officer of a detached squadron or other detachment, or corresponding unit of the air force; or
- (4) The commanding officer or officer in charge of any other command when empowered by the adjutant general.

(b) When only one (1) commissioned officer is present with a command or detachment, that officer shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases. Summary courts-martial may, however, be convened in any case by superior competent authority if considered desirable by such authority.

ARTICLE 25. WHO MAY SERVE ON COURTS-MARTIAL

(a) Any commissioned officer of the state military forces is eligible to serve on all courts-martial for the trial of any person subject to this code.

(b) Any warrant officer of the state military forces is eligible to serve on general and special courts-martial for the trial of any person subject to this code, other than a commissioned officer.

~~(c) Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member subject to this code, but~~

~~that member shall serve as a member of a court only if, before the conclusion of a session called by the military judge under article 39(a) of this code prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested orally on the record or in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third (1/3) of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be assembled and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained. In this article, "unit" means any regularly organized body of the state military forces not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one (1) of them~~

(c) (1) Any enlisted member of the state military forces is eligible to serve on a general or special court-martial for the trial of any other enlisted member.

(2) Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that:

(A) The membership of the court-martial be comprised entirely of officers; or

(B) Enlisted members comprise at least one-third (1/3) of the membership of the court-martial, regardless of whether enlisted members have been detailed to the court-martial.

(3) Except as provided in paragraph (4) of this subsection, after such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

(4) If, because of physical conditions or military exigencies, a sufficient number of eligible officers or enlisted members, as the case may be, is not available to carry out the provisions of paragraph (2) of this subsection, the trial may nevertheless be held. In that event, the convening authority shall make a detailed written statement of the reasons for nonavailability. The statement shall be appended to the record.

~~(d) When it can be avoided, no person subject to this code may be tried by a court-martial any member of which is junior to the accused in rank or grade.~~

(d) (1) The accused in a court-martial with a military judge and members may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members.

(2) The convening authority shall detail not less than the number of members necessary to impanel the court-martial under article 29.

(e) When convening a court-martial, the convening authority shall detail as members thereof such members of the state military forces as, in the convening authority's opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of the state military forces is eligible to serve as a member of a general or special court-martial when that member is the accuser, a witness, or has acted as investigating officer or as counsel in the same case.

(f) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. The convening authority may delegate the authority under this subsection to a judge advocate or to any other principal assistant.

ARTICLE 25a. RESERVED

ARTICLE 26. MILITARY JUDGE OF A GENERAL OR SPECIAL COURT-MARTIAL

(a) A military judge shall be detailed to each general and special court-martial. ~~The military judge shall preside over each open session of the court-martial to which the military judge has been detailed.~~

(b) A military judge shall be:

(1) An active or retired commissioned officer of an organized state military force and qualified, by reason of education, training, experience, and judicial temperament, for duty;

(2) A member in good standing of the bar of the highest court of a state or a member of the bar of a federal court for at least five (5) years; and

(3) Certified as ~~qualified for duty as~~ a military judge by the senior force judge advocate which is the same force as the accused; and

(4) Certified as qualified, by reason of education, training, experience, and judicial temperament, for duty.

(c) In the instance when a military judge is not a member of the bar of the highest court of the state, the military judge shall be deemed admitted pro hac vice, subject to filing a certificate with the senior force judge advocate which is the same force as the accused setting forth such qualifications provided in subsection (b) of this article.

(d) The military judge of a general or special court-martial shall be designated by the senior force judge advocate which is the same force as the accused, or a designee, for detail by the convening authority. Neither the convening authority nor any staff member of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to performance of duty as a military judge.

(e) No person is eligible to act as military judge in a case if that person is the accuser or a witness, or has acted as investigating preliminary hearing officer or a counsel in the same case.

(f) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor vote with the members of the court.

(g) A military judge may be detailed under subsection (a) of this article to a court-martial or a proceeding under article 30 that is convened in a different armed force, when so permitted by the senior force judge advocate of the armed force of which the military judge is a member.

ARTICLE 26a. MILITARY MAGISTRATES

(a) A military magistrate will be a commissioned officer of the state military forces who:

(1) Is a member of the bar of a federal court or a member of the bar of the highest court of a state; and

(2) Is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military magistrate by the state judge advocate.

(b) In accordance with regulations promulgated by the governor or his designee, in addition to duties when designated under this code, a military magistrate may be assigned to perform other duties of a nonjudicial nature.

ARTICLE 27. DETAIL OF TRIAL COUNSEL AND DEFENSE COUNSEL

(a) General provision:

(1) For each general and special court-martial, the authority convening the court shall detail trial counsel, defense counsel, and such assistants as are appropriate.

~~(2) No person who has acted as investigating officer, military judge, witness or court member in any case may act later as trial counsel, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge may later serve as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense nor may any person who has acted for the defense act later in the same case for the prosecution.~~

~~(b) Except as provided in subsection (c) of this article, trial counsel, or defense counsel, or assistant defense counsel detailed for a general or special court-martial must be:~~

~~(1) A judge advocate as defined in article 1 (a) (103) of this code; and~~

~~(2) In the case of trial counsel, a member in good standing of the bar of the highest court of the state where the court-martial is held.~~

~~(c) In the instance when a defense counsel is not a member of the bar of the highest court of the state, the defense counsel shall be deemed admitted pro hac vice, subject to filing a certificate with the military judge setting forth the qualifications that counsel is:~~

~~(1) A commissioned officer of the armed forces of the United States or a component thereof; and~~

~~(2) A member in good standing of the bar of the highest court of a state; and~~

~~(3) Certified as a judge advocate in the judge advocate general's corps of the army, air force, navy, or the marine corps; or~~

~~(4) A judge advocate as defined in article 1 (a) (10) of this code~~

~~Defense counsel and assistant defense counsel detailed for a special or general court-martial shall have the qualifications set forth in subsection (b) of this article.~~

~~(d) Trial counsel, assistant trial counsel, defense counsel, and assistant defense counsel detailed for a special court-martial must be determined to be competent to perform such duties by the senior force judge advocate, under such rules as the governor or his designee may prescribe.~~

ARTICLE 28. DETAIL OR EMPLOYMENT OF REPORTERS AND INTERPRETERS

Under such regulations as may be prescribed, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court and may detail or employ interpreters who shall interpret for the court.

ARTICLE 29. ABSENT AND ADDITIONAL ASSEMBLY AND IMPANELING OF MEMBERS -- DETAIL OF NEW MEMBERS AND MILITARY JUDGES

~~(a) No member of a general or special court-martial may be absent or excused after the court has been assembled for the trial of the accused unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause. The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused:~~

~~(1) As a result of a challenge;~~

~~(2) Under subsection (b) (1) (B) of this article; or~~

~~(3) By order of the military judge or the convening authority for disability or other good cause.~~

~~(b) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below five (5) members,~~

~~the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than the applicable minimum number of five (5) members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides Impaneling.~~

(1) Under rules prescribed by the governor or his designated representative, the military judge of a general or special court-martial with members shall:

(A) After determination of challenges, impanel the court-martial; and

(B) Excuse the members who, having been assembled, are not impaneled.

(2) In a general court-martial, the military judge shall impanel eight (8) members.

(3) In a special court-martial, the military judge shall impanel four (4) members.

~~(c) Whenever a special court-martial, other than a special court-martial composed of a military judge only, is reduced below three (3) members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three (3) members. The trial shall proceed with the new members present as if no evidence had been introduced previously at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, the accused, and counsel for both sides In addition to members under subsection (b) of this article, the military judge shall impanel alternate members, if the convening authority authorizes alternate members.~~

~~(d) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of article 16(1)(B) or (2)(B) of this code, after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides Detail of new members.~~

(1) If, after members are impaneled, the membership of the court-martial is reduced to fewer than twelve (12) members with respect to a general court-martial in a capital case, fewer than six (6) members with respect to a general court-martial in a noncapital case, or fewer than four (4) members with respect to a special court-martial, the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide the membership specified in paragraph (2) of this subsection.

(2) Membership shall be as follows:

(A) At least six (6) but not more than eight (8) members with respect to a general court-martial; and

(B) Four (4) members with respect to a special court-martial.

~~(e) If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.~~

(f) Evidence.

(1) In the case of new members under subsection (d) of this article, the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

(2) In the case of a new military judge under subsection (e) of this article, the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.

PART VI. PRE-TRIAL PROCEDURE

ARTICLE 30. CHARGES AND SPECIFICATIONS

~~(a) In general. Charges and specifications shall be signed by a person subject to this code under oath before a commissioned officer authorized by article 136(a) of this code to administer oaths and shall state:~~

~~(1) That the signer has personal knowledge of, or has investigated, the matters set forth therein May be preferred only by a person subject to this chapter; and~~

~~(2) That they are true in fact to the best of the signer's knowledge and belief Shall be preferred by presentment in writing, signed under oath before a commissioned officer of the state military forces who is authorized to administer oaths.~~

~~(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges as soon as practicable The writing under subsection (a) of this article shall state that:~~

~~(1) The signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and~~

~~(2) The matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.~~

~~(c) When charges and specifications are preferred under subsection (a) of this article, the proper authority shall, as soon as practicable:~~

~~(1) Inform the person accused of the charges and specifications; and~~

~~(2) Determine what disposition should be made of the charges and specifications in the interest of justice and discipline.~~

ARTICLE 31. COMPULSORY SELF-INCRIMINATION PROHIBITED

(a) No person subject to this code may compel any person to incriminate himself or to answer any question, the answer to which may tend to incriminate him.

(b) No person subject to this code may interrogate or request any statement from an accused or a person suspected of an offense without first informing that person of the nature of the accusation and advising that person that the person does not have to make any statement regarding the offense of which the person is accused or suspected and that any statement made by the person may be used as evidence against the person in a trial by court-martial.

(c) No person subject to this code may compel any person to make a statement or produce evidence before any military court if the statement or evidence is not material to the issue and may tend to degrade the person.

(d) No statement obtained from any person in violation of this article or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person in a trial by court-martial.

ARTICLE 32. INVESTIGATION

~~(a) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include in-~~

~~quiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition that should be made of the case in the interest of justice and discipline In general.~~

(1) (A) Except as provided in subparagraph (B) of this paragraph, a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection (b) of this article.

(B) Under regulations prescribed by the governor or his designated representative, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

(2) The purpose of the preliminary hearing shall be limited to determining the following:

(A) Whether or not the specification alleges an offense under this chapter;

(B) Whether or not there is probable cause to believe that the accused committed the offense charged;

(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense; and

(D) A recommendation as to the disposition that should be made of the case.

~~(b) The accused shall be advised of the charges against the accused and of the right to be represented at that investigation by counsel. The accused has the right to be represented at that investigation as provided in article 38 of this code and in regulations prescribed under that article. At that investigation, full opportunity shall be given to the accused to cross-examine witnesses against the accused, if they are available, and to present anything the accused may desire in the accused's own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused Hearing officer.~~

(1) A preliminary hearing under this article shall be conducted by an impartial hearing officer who:

(A) Whenever practicable, shall be a judge advocate who is certified under article 27 (b) ; or

(B) When it is not practicable to appoint a judge advocate because of exceptional circumstances, is not a judge advocate so certified.

(2) In the case of a hearing officer under paragraph (1) (B) of this subsection, a judge advocate who is certified under article 27 (b) shall be available to provide legal advice to the hearing officer.

(3) Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the government at the preliminary hearing.

~~(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b) of this article, no further investigation of that charge is necessary under this article unless it is demanded by the accused after the accused is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in the accused's own behalf Report to convening authority. After a preliminary hearing under this article, the hearing officer shall submit to~~

the convening authority a written report, accompanied by a recording of the preliminary hearing, that includes the following:

(1) For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under subsection (a) (2) of this article, including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial;

(2) Recommendations for any necessary modifications to the form of the charges or specifications;

(3) An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense, that under such rules as the governor or his designated representative may prescribe, is relevant to disposition under articles 30 and 34; and

(4) A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection (d) of this article.

(d) If evidence adduced in an investigation under this article indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused:

(1) Is present at the investigation;

(2) Is informed of the nature of each uncharged offense investigated; and

(3) Is afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b) of this article. A declination under this paragraph shall not serve as the sole basis for ordering a deposition under article 49.

(e) The requirements of this article are binding on all persons administering this code, but failure to follow them does not constitute jurisdictional error under such rules as the governor or his designated representative may prescribe.

(f) A defect in a report under subsection (c) of this article is not a basis for relief if the report is in substantial compliance with subsection (c).

ARTICLE 33. FORWARDING OF CHARGES DISPOSITION GUIDANCE

~~When a person is held for trial by general court-martial, the commanding officer shall within eight (8) days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the person exercising general court-martial jurisdiction. If that is not practicable, the commanding officer shall report in writing to that person the reasons for delay. The governor or his designated representative shall issue nonbinding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under articles 30 and 34. Such guidance shall take into account, with appropriate consideration of military requirements, the principles of fair and evenhanded administration of Idaho and federal criminal law.~~

ARTICLE 34. ADVICE OF JUDGE ADVOCATE AND REFERENCE TO CONVENING AUTHORITY BEFORE REFERRAL FOR TRIAL

(a) ~~Before directing the trial of any charge by general court-martial, the convening authority shall refer it to a judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court-martial for trial unless the convening authority~~

has been advised in writing by a judge advocate Staff judge advocate advice required before referral. Before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that:

- (1) The specification alleges an offense under this code chapter;
- (2) The specification is warranted by the evidence indicated in the report of investigation under article 32 of this code, if there is such a report There is probable cause to believe that the accused committed the offense charged; and
- (3) A court-martial would have jurisdiction over the accused and the offense.

(b) The advice of the judge advocate under subsection (a) of this article with respect to a specification under a charge shall include a written and signed statement by the judge advocate: Staff judge advocate recommendation as to disposition. Together with the written advice provided under subsection (a) of this article, the staff judge advocate shall provide a written recommendation to the convening authority as to the disposition that should be made of the specification in the interest of justice and discipline.

(1) Expressing conclusions with respect to each matter set forth in subsection (a) of this article; and

(2) Recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

(c) If the charges or specifications are not correct formally or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence, may be made Staff judge advocate advice and recommendation to accompany referral. When a convening authority makes a referral for trial by general court-martial, the written advice of the staff judge advocate under subsection (a) of this article and the written recommendation of the staff judge advocate under subsection (b) of this article with respect to each specification shall accompany the referral.

(d) Special court-martial; convening authority consultation with judge advocate. Before referral of charges and specifications to a special court-martial for trial, the convening authority shall consult a judge advocate on relevant legal issues.

(e) General and special courts-martial; correction of charges and specifications before referral. Before referral for trial by general court-martial or special court-martial, changes may be made to charges and specifications:

(1) To correct errors in form; and

(2) When applicable, to conform to the substance of the evidence contained in a report under article 32 (c) .

(f) Referral defined. In this article, the term "referral" means the order of a convening authority that charges and specifications against an accused be tried by a specified court-martial.

ARTICLE 35. SERVICE OF CHARGES -- COMMENCEMENT OF TRIAL

The trial counsel shall serve or caused to be served upon the accused a copy of the charges. No person may, against the person's objection, be brought to trial before a general court-martial case within a period of five (5) days after the service of charges upon the accused, or in a special court-martial

~~within a period of three (3) days after the service of charges upon the accused~~

(a) In general. Trial counsel detailed for a court-martial under article 27 shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

(b) Commencement of trial.

(1) Subject to paragraphs (2) and (3) of this subsection, no trial or other proceeding of a general court-martial or a special court-martial, including any session under article 39(a), may be held over the objection of the accused:

(A) With respect to a general court-martial, from the time of service through the fifth day after the date of service; or

(B) With respect to a special court-martial, from the time of service through the third day after the date of service.

(2) An objection under paragraph (1) of this subsection may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable period under paragraph (1) (A) or (1) (B) of this subsection. If the first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

(3) This subsection shall not apply in time of war.

PART VII. TRIAL PROCEDURE

ARTICLE 36. GOVERNOR OR THE ADJUTANT GENERAL MAY PRESCRIBE RULES

Pretrial, trial, and ~~post-trial~~ posttrial procedures, including modes of proof, for courts-martial cases arising under this code, and for courts of inquiry, may be prescribed by the governor or the adjutant general by regulations, or as otherwise provided by law, which shall apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the armed forces but which may not be contrary to or inconsistent with this code.

ARTICLE 37. UNLAWFULLY INFLUENCING ACTION OF COURT

(a) No authority convening a general, special, or summary court-martial, nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, the military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court or with respect to any other exercise of its or their functions in the conduct of the proceedings. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or court of inquiry or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to their judicial acts. The foregoing provisions of this subsection shall not apply with respect to: (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial; or (2) to statements and instructions given in open court by the military judge, summary court-martial officer, or counsel.

(b) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained on active status, no person subject

to this code may, in preparing any such report: (1) consider or evaluate the performance of duty of any such member as a member of a court-martial or witness therein; or (2) give a less favorable rating or evaluation of any counsel of the accused because of zealous representation before a court-martial.

ARTICLE 38. DUTIES OF TRIAL COUNSEL AND DEFENSE COUNSEL

(a) The trial counsel of a general or special court-martial shall be a member in good standing of the state bar and shall prosecute in the name of the state and shall, under the direction of the court, prepare the record of the proceedings.

(b) Defense counsel:

(1) The accused has the right to be represented in defense before a general or special court-martial or at an investigation under article 32 of this code as provided in this subsection.

(2) The accused may be represented by civilian counsel at the provision and expense of the accused.

(3) The accused may be represented:

(A) By military counsel detailed under article 27 of this code; or

(B) By military counsel of the accused's own selection if that counsel is reasonably available as determined under paragraph (7) of this subsection.

(4) If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph (3) of this subsection shall act as associate counsel unless excused at the request of the accused.

(5) Except as provided under paragraph (6) of this subsection, if the accused is represented by military counsel of his own selection under paragraph (3) (B) of this subsection, any military counsel detailed under paragraph (3) (A) of this subsection shall be excused.

(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under article 27 of this code to detail counsel, in that person's sole discretion:

(A) May detail additional military counsel as assistant defense counsel; and

(B) If the accused is represented by military counsel of the accused's own selection under paragraph (3) (B) of this subsection, may approve a request from the accused that military counsel detailed under paragraph (3) (A) of this subsection act as associate defense counsel.

(7) The senior force judge advocate of the same force of which the accused is a member shall determine whether the military counsel selected by an accused is reasonably available.

(c) In any court-martial proceeding resulting in a conviction, the defense counsel:

(1) May forward for attachment to the record of proceedings a brief of such matters as counsel determines should be considered in behalf of the accused on review, including any objection to the contents of the record which counsel considers appropriate; and

(2) ~~May assist the accused in the submission of any matter under article 60 of this code; and~~

~~(3) May take other action authorized by this code.~~

ARTICLE 39. SESSIONS

(a) At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to article 35 of this code, call the court into session without the presence of the members for the purpose of:

- (1) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;
- (2) Hearing and ruling upon any matter which may be ruled upon by the military judge under this code, whether or not the matter is appropriate for later consideration or decision by the members of the court;
- (3) Holding the arraignment and receiving the pleas of the accused; and
- (4) Conducting a sentencing proceeding and sentencing the accused in noncapital cases unless the accused requests sentencing by members under article 25; and
- (5) Performing any other procedural function which does not require the presence of the members of the court under this code. These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of court members and without regard to article 29.

(b) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

ARTICLE 40. CONTINUANCES

The military judge of a court-martial or a summary court-martial may, for reasonable cause grant a continuance to any party for such time and as often as may appear to be just.

ARTICLE 41. CHALLENGES

(a) Challenges generally.

(1) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge or the court shall determine the relevancy and validity of challenges for cause and may not receive a challenge to more than one (1) person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) If exercise of a challenge for cause reduces the court below the ~~minimum~~ number of members required by article 16 of this code, all parties shall, notwithstanding article 29 of this code, either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.

(b) Preemptory challenges.

(1) Each accused and the trial counsel are entitled initially to one (1) preemptory challenge of members of the court. The military judge may not be challenged except for cause.

(2) If exercise of a preemptory challenge reduces the court below the minimum number of members required by article 16 of this code, the parties shall, notwithstanding article 29 of this code, either exercise or waive any remaining preemptory challenge, not previously waived, against the remaining members of the court before additional members are detailed to the court.

(3) Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one (1) preemptory challenge against members not previously subject to preemptory challenge.

ARTICLE 42. OATHS OR AFFIRMATIONS

(a) Before performing their respective duties, military judges, general and special courts-martial members, trial counsel, defense counsel, reporters, and interpreters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully. The form of the oath or affirmation, the time and place of the taking thereof, the manner of recording the same, and whether the oath or affirmation shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulation or as provided by law. These regulations may provide that an oath or affirmation to perform faithfully the duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty, and if such an oath or affirmation is taken, it need not again be taken at the time the judge advocate or other person is detailed to that duty.

(b) Each witness before a court-martial shall be examined under oath or affirmation.

ARTICLE 43. STATUTE OF LIMITATIONS

(a) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under article 15 of this code if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or before the imposition of punishment under article 15 of this code.

(b) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this article.

(c) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

(d) When the United States is at war, the running of any statute of limitations applicable to any offense under this code:

(1) Involving fraud or attempted fraud against the United States, any state, or any agency of either in any manner, whether by conspiracy or not;

(2) Committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States or any state; or

(3) Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or government agency;

is suspended until two (2) years after the termination of hostilities as proclaimed by the president or by a joint resolution of congress.

(e) Exception.

(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations:

(A) Has expired; or will be met.

(B) Will expire within one hundred eighty (180) days after the date of dismissal of the charges and specifications, trial and punishment under new charges and specifications are not barred

by the statute of limitations if the conditions specified in paragraph (2) of this subsection are met.

(2) The conditions referred to in paragraph (1) of this subsection are that the new charges and specifications must:

(A) Be received by an officer exercising summary court-martial jurisdiction over the command within one hundred eighty (180) days after the dismissal of the charges or specifications; and

(B) Allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications).

(f) Fraudulent enlistment or appointment. A person charged with fraudulent enlistment or fraudulent appointment under article 104a(1) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

(1) In the case of an enlisted member, during the period of the enlistment or five (5) years, whichever provides a longer period.

(2) In the case of an officer, during the period of the appointment or five (5) years, whichever provides a longer period.

(g) DNA evidence. If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one (1) year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

ARTICLE 44. FORMER JEOPARDY

(a) No person may, without his consent, be tried a second time for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

~~(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article.~~

(c) (1) A court-martial with a military judge alone is a trial in the sense of this article if, without fault of the accused after introduction of evidence and before announcement of findings under article 53, the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

(2) A court-martial with a military judge and members is a trial in the sense of this article if, without fault of the accused after the members, having taken an oath as members under article 42 and after completion of challenges under article 41, are impaneled, and before announcement of findings under article 53, the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

ARTICLE 45. PLEAS OF THE ACCUSED

(a) Irregular and similar pleas. If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall

be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(b) Pleas of guilty. With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

(c) Harmless error. A variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused.

ARTICLE 46. OPPORTUNITY TO OBTAIN WIT-
NESSES AND OTHER EVIDENCE IN TRIALS BY COURT

(a) In a case referred for trial by court-martial, ~~T~~the trial counsel, and the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence as prescribed by regulations and provided by law. Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall apply the principles of law and the rules of courts-martial generally recognized in military criminal cases in the courts of the armed forces of the United States, but which may not be contrary to or inconsistent with this code. Process shall run to any part of the United States, or the territories, commonwealths, and possessions, and may be executed by civil officers as prescribed by the laws of the place where the witness or evidence is located or of the United States.

(b) Subpoena and other process generally. Any subpoena or other process issued under this article:

(1) Shall be similar to that which courts of the state of Idaho or courts of the United States having criminal jurisdiction may issue;

(2) Shall be executed in accordance with regulations prescribed by the governor or his designated representative; and

(3) Shall run to any part of the United States and to the commonwealths and possessions of the United States.

(c) Subpoena and other process for witnesses. A subpoena or other process may be issued to compel a witness to appear and testify:

(1) Before a court-martial, military commission, or court of inquiry;

(2) At a deposition under article 49; or

(3) As otherwise authorized under this chapter.

(d) In general. A subpoena or other process may be issued to compel the production of evidence:

(1) For a court-martial, military commission, or court of inquiry;

(2) For a deposition under article 49;

(3) For an investigation of an offense under this chapter; or

(4) As otherwise authorized under this chapter.

(e) Investigative subpoena. An investigative subpoena under subsection (c) (3) of this article may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the government to issue such a subpoena or a military judge issues such a subpoena pursuant to article 30.

(f) Warrant or order for wire or electronic communications. With respect to an investigation of an offense under this chapter, a military judge detailed in accordance with article 26 or 30 may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the state of Idaho under title 19, Idaho Code, subject to

such limitations as the governor or his designated representative may pre-
scribe.

(g) Request for relief from subpoena or other process. If a person re-
quests relief from a subpoena or other process under this article on grounds
that compliance is unreasonable or oppressive or is prohibited by law, a mil-
itary judge detailed in accordance with article 26 or 30 shall review the re-
quest and shall:

- (1) Order that the subpoena or other process be modified or withdrawn,
as appropriate; or
- (2) Order the person to comply with the subpoena or other process.

ARTICLE 47. REFUSAL OF PERSON NOT SUBJECT TO CHAP-
TER TO APPEAR, OR TESTIFY, OR PRODUCE EVIDENCE

(a) Any person not subject to this code who: In general.

- (1) Has been duly subpoenaed to appear as a witness or to produce books
and records before a court-martial or court of inquiry, or before any
military or civil officer designated to take a deposition to be read in
evidence before such a court;
- (2) Has been duly paid or tendered the fees and mileage of a witness at
the rates allowed to witnesses attending a criminal court of the state;
and
- (3) Willfully neglects or refuses to appear, or refuses to qualify as
a witness or to testify or to produce any evidence which that person may
have been legally subpoenaed to produce;

may be punished by the military court in the same manner as a criminal court
of the state.

(1) Any person described in paragraph (2) of this subsection who does
either of the following is guilty of an offense against the United
States:

- (A) Willfully neglects or refuses to appear; or
- (B) Willfully refuses to qualify as a witness or to testify or to
produce any evidence which that person is required to produce.

(2) The persons referred to in paragraph (1) of this subsection are the
following:

- (A) Any person not subject to this chapter who is issued a sub-
poena or other process described in subsection (c) of article 46
and is provided a means for reimbursement from the government for
fees and mileage at the rates allowed to witnesses attending the
courts of the United States or, in the case of extraordinary hard-
ship, is advanced such fees and mileage; and
- (B) Any person not subject to this chapter who is issued a subpoena
or other process described in subsection (d) of article 46.

(b) The fees and mileage of witnesses shall be advanced or paid out of
the appropriations for the compensation of witnesses.

ARTICLE 48. CONTEMPTS

A military judge or summary court-martial officer may punish for contempt
any person who uses any menacing word, sign, or gesture in its presence or who
disturbs its proceedings by any riot or disorder.

(a) A person subject to this code may be punished for contempt by
confinement not to exceed thirty (30) days or a fine of one hundred dollars
(\$100), or both Authority to punish.

(1) With respect to any proceeding under this chapter, a judicial of-
ficer specified in paragraph (2) of this subsection may punish for con-
tempt any person who:

- (A) Uses any menacing word, sign, or gesture in the presence of the
judicial officer during the proceeding;

- (B) Disturbs the proceeding by any riot or disorder; or
- (C) Willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

(2) A judicial officer referred to in paragraph (1) of this subsection is any of the following:

- (A) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter;
- (B) Any military magistrate designated to preside under this code; or
- (C) The governor or his designated representative of a court of inquiry.

~~(b) A person not subject to this code may be punished for contempt by a military court in the same manner as a criminal court of the state Review. A punishment under this article:~~

- (1) If imposed by a military judge or military magistrate, may be reviewed by the district court of the judicial district where the proceeding was conducted in accordance with the applicable rules of procedure of the Idaho state courts; and
- (2) If imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with rules prescribed by the governor or his designated representative.

ARTICLE 49. DEPOSITIONS

~~(a) At any time after charges have been signed as provided in article 30 of this code, any party may take oral or written depositions unless the military judge or summary court-martial officer hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause.~~

~~(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.~~

~~(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.~~

~~(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file, or similar material, may be played in evidence before any military court, if it appears:~~

In general.

(1) That the witness resides or is beyond the state in which the court is ordered to sit, or beyond one hundred (100) miles from the place of trial or hearing; Subject to paragraph (2) of this subsection, a convening authority or a military judge may order depositions at the request of any party.

(2) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, non-amenability to process, or other reasonable cause is unable or refuses to appear and testify in person at the place of trial or hearing; or A deposition may be ordered under paragraph (1) of this subsection only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

(3) That the present whereabouts of the witness is unknown A party who requests a deposition under this article shall give to every other party reasonable written notice of the time and place for the deposition.

(4) A deposition under this article shall be taken before, and authenticated by, an impartial officer, as follows:

(A) Whenever practicable, by an impartial judge advocate certified under article 27 (b); or

(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by the laws of the United States or the laws of the place where the deposition is taken.

(b) Representation by counsel. Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under article 27. In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as provided for in article 38 (b) .

(c) Admissibility and use as evidence. A deposition order under subsection (a) of this article does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as otherwise provided by this code, a party may use all or part of a deposition as provided by the rules of evidence.

ARTICLE 50. ADMISSIBILITY OF SWORN TESTIMONY FROM RECORDS OF COURTS OF INQUIRY

(a) Use as evidence by any party. In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Use of evidence by defense. Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(c) Use in courts of inquiry and military boards. Such testimony may also be read in evidence before a court of inquiry.

(d) Audiotape or videotape. Sworn testimony that is recorded by audiotape, videotape, or similar method, and is contained in the duly authenticated record of proceedings of a court of inquiry, is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c) of this article.

ARTICLE 50a. DEFENSE OF LACK OF MENTAL RESPONSIBILITY

(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this article and charge them to find the accused:

(1) Guilty;

(2) Not guilty; or

(3) Not guilty only by reason of lack of mental responsibility.

(d) Subsection (c) of this article does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed

of a military judge only or a summary court-martial officer, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge or summary court-martial officer shall find the accused:

- (1) Guilty;
- (2) Not guilty; or
- (3) Not guilty only by reason of lack of mental responsibility.

(e) Notwithstanding the provisions of article 52 of this code, the accused shall be found not guilty only by reason of lack of mental responsibility if:

- (1) A majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or
- (2) In the case of a court-martial composed of a military judge only or a summary court-martial officer, the military judge or summary court-martial officer determines that the defense of lack of mental responsibility has been established.

ARTICLE 51. VOTING AND RULINGS

(a) Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court. However, the military judge may change the ruling at any time during the trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in article 52 of this code, beginning with the junior in rank.

(c) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

- (1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;
- (2) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted;
- (3) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and
- (4) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the state.

(d) Subsections (a), (b), and (c) of this article do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition, on request, find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

ARTICLE 52. NUMBER OF VOTES REQUIRED FOR
CONVICTION, SENTENCING, AND OTHER MATTERS

(a) In general. No person may be convicted of an offense except as provided in article 45(b) of this code or by the concurrence of two-thirds (2/3) of the members present at the time the vote is taken in a general or special court-martial, other than:

(1) After a plea of guilty under article 45(b);

(2) By a military judge in a court-martial with a military judge alone, under article 16; or

(3) In a court-martial with members under article 16, by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

(b) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote, but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused. Level of concurrence required.

(1) In general. Except as provided in subsection (a) of this article and in paragraph (2) of this subsection, all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

(2) Sentencing. All sentences imposed by members shall be determined by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

ARTICLE 53. COURT TO ANNOUNCE ACTION FINDINGS AND SENTENCING

(a) Announcement. A court-martial shall announce its findings and sentence to the parties as soon as determined.

(b) Sentencing generally.

(1) General and special courts-martial.

(A) Sentencing by military judge. Except as provided in subparagraph (B) of this paragraph, and in this code for capital offenses, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused.

(B) Sentencing by members. If the accused is convicted of an offense by general or special court-martial consisting of a military judge and members, and the accused elects sentencing by members under article 25, the members shall sentence the accused.

(C) Sentence of the accused. The sentence determined pursuant to this paragraph constitutes the sentence of the accused.

(2) Summary courts-martial. If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

ARTICLE 53a. PLEA AGREEMENTS(a) In general.

(1) At any time before the announcement of findings under article 53, the convening authority and the accused may enter into a plea agreement with respect to such matters as the manner in which the convening authority will dispose of one (1) or more charges and specifications and limitations on the sentence that may be adjudged for one (1) or more charges and specifications.

(2) The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

(b) Limitation on acceptance of plea agreements. The military judge of a general or special court-martial shall reject a plea agreement that:

(1) Contains a provision that has not been accepted by both parties;

(2) Contains a provision that is not understood by the accused;

(3) Except as provided in subsection (c) of this article, contains a provision for a sentence that is less than the mandatory minimum sentence applicable to an offense;

(4) Is prohibited by law; or

(5) Is contrary to, or is inconsistent with, a regulation prescribed by the governor or his designated representative with respect to terms, conditions, or other aspects of plea agreements.

(c) Limited conditions for acceptance of plea agreement for sentence below mandatory minimum for certain offenses. With respect to an offense:

(1) The military judge may accept a plea agreement that provides for a sentence of bad-conduct discharge; and

(2) Upon recommendation of the trial counsel, in exchange for substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the military judge may accept a plea agreement that provides for a sentence that is less than the mandatory minimum sentence for the offense charged.

(d) Binding effect of plea agreement. Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the court-martial.

ARTICLE 54. RECORD OF TRIAL

(a) Each general and special court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member, if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. In a court-martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection General and special courts-martial. Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the governor or his designated representative may prescribe by regulation.

(b) (1) A complete verbatim record of the proceedings and testimony shall be prepared in each general and special court-martial case resulting in a conviction; and

(2) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations.

(c) Summary courts-martial. Each summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be authenticated certified in the manner as may be prescribed by regulations.

(d) Copy to accused. A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated certified.

(e) Contents of record.

(1) Except as provided in paragraph (2) of this subsection, the record shall contain such matters as the governor or his designated representative may prescribe by regulation.

(2) In accordance with regulations prescribed by the governor or his designated representative, a complete record of proceedings and testimony shall be prepared in any case of a sentence of death, dismissal, discharge, confinement for more than six (6) months, or forfeiture of pay for more than six (6) months.

(f) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is certified.

(g) In the case of a general or special court-martial, upon request, a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records are certified. The victim shall be notified of the opportunity to receive the records of the proceedings.

PART VIII. SENTENCES

ARTICLE 55. CRUEL AND UNUSUAL PUNISHMENTS PROHIBITED

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment may not be adjudged by a court-martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

ARTICLE 56. ~~MAXIMUM LIMITS~~ SENTENCING

(a) The punishment which a court-martial may direct for an offense may not exceed such limits as prescribed by this code, but in no instance may a sentence exceed more than ten (10) years for a military offense, nor shall a sentence of death be adjudged. A conviction by general court-martial of any military offense for which an accused may receive a sentence of confinement for more than one (1) year is a felony offense. Except for convictions by a summary court-martial, all other military offenses are misdemeanors. Any conviction by a summary court-martial is not a criminal conviction.

(b) The limits of punishment for violations of the punitive articles prescribed herein shall be the lesser of the sentences prescribed by the manual for courts-martial of the United States currently in effect on January 1, 2004, and the state manual for courts-martial, but in no instance shall any punishment exceed that authorized by this code.

(c) Imposition of sentence.

(1) In general. In sentencing an accused, a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the state military forces, taking into consideration:

(A) The nature and circumstances of the offense and the history and characteristics of the accused;

(B) The impact of the offense on:

(i) The financial, social, psychological, or medical well-being of any victim of the offense; and

(ii) The mission, discipline, or efficiency of the command of the accused and any victim of the offense;

(C) The need for the sentence:

(i) To reflect the seriousness of the offense;

(ii) To promote respect for the law;

(iii) To provide just punishment for the offense;

(iv) To promote adequate deterrence of misconduct;

(v) To protect others from further crimes by the accused;

(vi) To rehabilitate the accused; and

(vii) To provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service; and

(D) The sentences available under this chapter.

(2) Sentencing by military judge. In announcing the sentence in a general or special court-martial in which the accused is sentenced by a military judge alone under article 53, the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one (1) offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

(3) Sentencing by members. In a general or special court-martial in which the accused has elected sentencing by members, the court-martial shall announce a single sentence for all of the offenses of which the accused was found guilty.

(d) Appeal of sentence to the district court of the county where the court-martial is held.

(1) With the approval of the senior force judge advocate concerned, the government may appeal a sentence, on the grounds that the sentence violates the law or the sentence is unreasonable.

(2) An appeal under this subsection must be filed within forty-two (42) days after the date of entry of judgment.

ARTICLE 56a. RESERVED

ARTICLE 57. EFFECTIVE DATE OF SENTENCES

~~(a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.~~

~~(b) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.~~

~~(c) All other sentences of courts-martial are effective on the date ordered executed.~~

Execution of sentences. A court-martial sentence shall be executed and take effect as follows:

(1) Forfeiture and reduction. A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of:

(A) The date that is fourteen (14) days after the date on which the sentence is adjudged; or

(B) In the case of a summary court-martial, the date on which the sentence is approved by the convening authority.

(2) Confinement. Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

(3) Approval of dismissal. If, in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the secretary concerned or such undersecretary or assistant secretary as may be designated by the secretary concerned. In such a case, the secretary, undersecretary, or assistant secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the secretary sees fit. In time of war or national emergency, he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six (6) months thereafter.

(4) Completion of appellate review. If a sentence extends to dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to dismissal, or a dishonorable or bad-conduct discharge, may be executed in accordance with service regulations after completion of appellate review and, with respect to dismissal, approval under paragraph (3) or (4) of this subsection, as appropriate.

(5) Other sentences. Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

(b) Deferral of sentences.

(1) In general. On application by an accused, the convening authority or, if the accused is no longer under his jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned may, in his sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(2) Deferral of certain persons sentenced to confinement. In any case in which a court-martial sentences a person referred to in paragraph (3) of this subsection to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the state military forces by a state or foreign country referred to in that paragraph.

(3) Covered persons. Paragraph (2) of this subsection applies to a person subject to this chapter who, while in the custody of a state or foreign country, is temporarily returned by that state or foreign country to the state military forces for trial by court-martial and, after the court-martial, is returned to that state or foreign country under the authority of a mutual agreement or treaty, as the case may be.

(4) State defined. In this subsection, the term "state" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(5) Deferral while review pending. In any case in which a court-martial sentences a person to confinement, but in which review of the case is

pending, the secretary concerned may defer further service of the sentence to confinement while that review is pending.

(c) Appellate review.

(1) Completion of appellate review. Appellate review is complete under this article when a review under this code is completed or a review is completed by the Idaho state courts in accordance with the applicable rules of procedure of the Idaho state courts.

(2) Completion as final judgment of legality of proceedings. The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.

~~ARTICLE 57a. DEFERMENT OF SENTENCES~~

~~(a) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in that person's sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the person who granted it or, if the accused is no longer under that person's jurisdiction, by the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned.~~

~~(b) (1) In any case in which a court-martial sentences an accused referred to in paragraph (2) of this subsection to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of the accused, until after the accused has been permanently released to the state military forces by a state, the United States, or a foreign country referred to in that paragraph.~~

~~(2) Paragraph (1) of this subsection applies to a person subject to this code who:~~

~~(A) While in the custody of a state, the United States, or a foreign country is temporarily returned by that state, the United States, or a foreign country to the state military forces for trial by court-martial; and~~

~~(B) After the court-martial, is returned to that state, the United States, or a foreign country under the authority of a mutual agreement or treaty, as the case may be.~~

~~(3) In this subsection, the term "state" includes the District of Columbia and any commonwealth, territory, or possession of the United States.~~

~~(c) In any case in which a court-martial sentences an accused to confinement and the sentence to confinement has been ordered executed, but in which review of the case under article 67(a) of this code is pending, the adjutant general may defer further service of the sentence to confinement while that review is pending.~~

ARTICLE 58. EXECUTION OF CONFINEMENT

(a) A sentence of confinement adjudged by a court-martial, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place authorized by this code. Persons so confined are subject to the same discipline and treatment as persons regularly confined or committed to that place of confinement.

(b) The omission of "hard labor" as a sentence authorized under this code does not deprive the state confinement facility from employing it, if it otherwise is within the authority of that facility to do so.

(c) No place of confinement may require payment of any fee or charge for so receiving or confining a person except as otherwise provided by law.

ARTICLE 58a. SENTENCES -- REDUCTION IN ENLISTED GRADE UPON APPROVAL

(a) A court-martial sentence of an enlisted member in a pay grade above E-1, ~~as approved by the convening authority, that as set forth in the judgment of the court-martial entered into the record,~~ includes:

(1) A dishonorable or bad-conduct discharge; ~~or~~

(2) Confinement; or

(3) reduces Reduction of that member to pay grade E-1, effective on the date of that approval if such a reduction is authorized by regulation prescribed by the governor or his designated representative. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

(b) If the sentence of a member who is reduced in pay grade under subsection (a) of this article is set aside or disapproved, ~~or, as finally approved reduced, or, as finally affirmed,~~ does not include any punishment named in subsection (a) (1) or (2) of this article, the rights and privileges of which the person was deprived because of that reduction shall be restored, including pay and allowances.

ARTICLE 58b. SENTENCES -- FORFEITURE OF
PAY AND ALLOWANCES DURING CONFINEMENT

(a) Generally.

(1) A court-martial sentence described in paragraph (2) of this subsection shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this article shall take effect on the date determined under ~~article 57(a) of this code~~ and may be deferred as provided by ~~that article~~ this code. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds (2/3) of all pay due that member during such period.

(2) A sentence covered by this article is any sentence that includes:

(A) Confinement for more than six (6) months; or

(B) Confinement for six (6) months or less and a dishonorable or bad-conduct discharge or dismissal.

(b) In a case involving an accused who has dependents, the convening authority or other person acting under article 60 of this code may waive any or all of the forfeitures of pay and allowances required by subsection (a) of this article for a period not to exceed six (6) months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

(c) If the sentence of a member who forfeits pay and allowances under subsection (a) of this article is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a) (2) of this article, the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.

PART IX. POST-TRIAL POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

ARTICLE 59. ERROR OF LAW -- LESSER INCLUDED OFFENSE

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

ARTICLE 60. ACTION BY THE CONVENING AUTHORITY POSTTRIAL
PROCESSING IN GENERAL AND SPECIAL COURTS-MARTIAL

~~(a) The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.~~

~~(b) Matters in extenuation.~~

~~(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission shall be in writing. Except in a summary court-martial case, such a submission shall be made within ten (10) days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of a judge advocate under subsection (d) of this article. In a summary court-martial case, such a submission shall be made within seven (7) days after the sentence is announced.~~

~~(2) If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this article, for good cause, may extend the applicable period under paragraph (1) of this subsection for not more than an additional twenty (20) days.~~

~~(3) In a summary court-martial case, the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1) of this subsection.~~

~~(4) The accused may waive the right to make a submission to the convening authority under paragraph (1) of this subsection. Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2) of this article, the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.~~

~~(c) Discretion of convening authority.~~

~~(1) The authority under this article to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this article.~~

~~(2) Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this article. Such action may be taken only after consideration of any matters submitted by the accused under subsection (b) of this article or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking such action, in that person's sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.~~

~~(3) Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required. However, such person, in the person's sole discretion, may:~~

~~(A) Dismiss any charge or specification by setting aside a finding of guilty thereto; or~~

~~(B) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.~~

~~(d) Before acting under this article on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action under this article shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action under this article shall refer the record of trial to the judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate shall include such matters as may be prescribed by regulation and shall be served on the accused, who may submit any matter in response under subsection (b) of this article. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.~~

~~(e) Proceedings in revision.~~

~~(1) The convening authority or other person taking action under this article, in the person's sole discretion, may order a proceeding in revision or a rehearing.~~

~~(2) A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision:~~

~~(A) Reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;~~

~~(B) Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this code; or~~

~~(C) Increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.~~

~~(3) A rehearing may be ordered by the convening authority or other person taking action under this article if that person disapproves the findings and sentence and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, that person shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.~~

Statement of trial results.

(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled "statement of trial results," which shall set forth:

(A) Each plea and finding;

(B) The sentence, if any; and

(C) Such other information as the governor or his designated representative may prescribe by regulation.

(2) Copies of the statement of trial results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

(b) Posttrial motions. In accordance with regulations prescribed by the governor or his designated representative, the military judge in a general or special court-martial shall address all posttrial motions and other posttrial matters that:

- (1) May affect a plea, a finding, the sentence, the statement of trial results, the record of trial, or any posttrial action by the convening authority; and
- (2) Are subject to resolution by the military judge before entry of judgment.

ARTICLE 61. WAIVER OF RIGHT TO APPEAL -- WITHDRAWAL OF APPEAL

~~(a) In each case subject to appellate review under this code, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to such appeal. Such a withdrawal shall be signed by both the accused and his defense counsel and must be filed in accordance with appellate procedures as provided by law. Waiver of right to appeal. After entry of judgment in a general or special court-martial, under procedures prescribed by the secretary concerned, the accused may waive the right to appellate review in each case subject to such review under this code. Such a waiver shall be signed by the accused and by defense counsel and attached to the record of trial.~~

~~(b) The accused may withdraw an appeal at any time in accordance with appellate procedures as provided by law. Withdrawal of appeal. In a general or special court-martial, the accused may withdraw an appeal at any time.~~

~~(c) Waiver or withdrawal as bar. A waiver or withdrawal under this article bars review under this code.~~

ARTICLE 62. APPEAL BY THE STATE

(a) Generally.

(1) In a trial by court-martial in which a punitive discharge may be adjudged, the state may appeal the following, other than a finding of not guilty with respect to the charge or specification by the members of the court-martial, or by a judge in a bench trial so long as it is not made in reconsideration:

(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

(C) An order or ruling which directs the disclosure of classified information.

(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

(E) A refusal of the military judge to issue a protective order sought by the state to prevent the disclosure of classified information.

(F) A refusal by the military judge to enforce an order described in subparagraph (E) of this paragraph that has previously been issued by appropriate authority.

(G) An order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.

(2) (A) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within seventy-two (72) hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(B) An appeal of an order or ruling may not be taken when prohibited by article 44.

(3) An appeal under this article shall be diligently prosecuted as provided by law.

(b) An appeal under this article shall be forwarded to the court prescribed in article 67a of this code. In ruling on an appeal under this article, that court may act only with respect to matters of law.

(c) Any period of delay resulting from an appeal under this article shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

(d) The United States may appeal a ruling or order of a military magistrate in the same manner as had the ruling or order been made by a military judge, except that the issue shall first be presented to the military judge who designated the military magistrate or to a military judge detailed to hear the issue.

(e) The provisions of this article shall be liberally construed to effect its purposes.

ARTICLE 63. REHEARINGS

(a) Each rehearing under this code shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing, the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be approved adjudged, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.

(b) If the sentence adjudged by the first court-martial was in accordance with a plea agreement under article 53a and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial, subject to such limitations as the governor or his designated representative may prescribe by regulation.

(c) If, after appeal by the government under article 56(d), the sentence adjudged is set aside and a rehearing on sentence is ordered by the state court, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the governor or his designated representative may prescribe by regulation.

ARTICLE 64. REVIEW BY THE SENIOR FORCE JUDGE ADVOCATE REVIEW OF FINDING OF GUILTY IN SUMMARY COURT-MARTIAL

(a) Each general and special court-martial case in which there has been a finding of guilty shall be reviewed by the senior force judge advocate, or a designee. The senior force judge advocate, or designee, may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The se-

senior force judge advocate's review shall be in writing and shall contain the following:

(1) Conclusions as to whether:

- (A) The court had jurisdiction over the accused and the offense;
- (B) The charge and specification stated an offense; and
- (C) The sentence was within the limits prescribed as a matter of law.

(2) A response to each allegation of error made in writing by the accused.

(3) If the case is sent for action under subsection (b) of this article, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

(b) Record. The record of trial and related documents in each case reviewed under subsection (a) of this article shall be sent for action to the adjutant general if:

(1) The judge advocate who reviewed the case recommends corrective action;

(2) The sentence approved under ~~article 60(c)~~ of this code extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six (6) months; or

(3) Such action is otherwise required by regulations of the adjutant general.

(c) The adjutant general's discretion.

(1) The adjutant general may:

(A) Disapprove or approve the findings or sentence, in whole or in part;

(B) Remit, commute, or suspend the sentence in whole or in part;

(C) Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or

(D) Dismiss the charges.

(2) If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.

(3) If the opinion of the senior force judge advocate, or designee, in the senior force judge advocate's review under subsection (a) of this article is that corrective action is required as a matter of law and if the adjutant general does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the governor for review and action as deemed appropriate.

(d) The senior force judge advocate, or a designee, may review any case in which there has been a finding of not guilty of all charges and specifications. The senior force judge advocate, or designee, may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate's review shall be limited to questions of subject matter jurisdiction.

(e) The record of trial and related documents in each case reviewed under subsection (d) of this article shall be sent for action to the adjutant general.

(1) The adjutant general may:

(A) When subject matter jurisdiction is found to be lacking, void the court-martial ab initio, with or without prejudice to the government, as the adjutant general deems appropriate; or

(B) Return the record of trial and related documents to the senior force judge advocate for appeal by the government as provided by law.

ARTICLE 65. ~~DISPOSITION OF RECORDS AFTER REVIEW BY THE
CONVENING AUTHORITY TRANSMITTAL AND REVIEW OF RECORDS~~

~~Except as otherwise required by this code, all records of trial and related documents shall be transmitted and disposed of as prescribed by regulation and provided by law.~~

(a) Finding of guilty in general or special court-martial. If the judgment of a general or special court-martial entered under this code includes a finding of guilty, the record shall be transmitted to the state staff judge advocate.

(b) Other cases. In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the adjutant general may prescribe by regulation.

ARTICLE 66. RESERVED

ARTICLE 67. RESERVED

ARTICLE 67a. REVIEW BY STATE APPELLATE AUTHORITY

Decisions of a court-martial are from a court with jurisdiction to issue felony convictions and appeals therefrom will be made to the district court of the judicial district wherein the court-martial was conducted within forty-two (42) days from the ~~date of receipt of the record of trial as set out in article 64~~ entry of judgment. For courts-martial held outside of the state of Idaho, venue for appeal purposes shall be in the district court of the fourth judicial district, Ada county, Idaho. The appellate procedures to be followed shall be those provided by law and rule for the appeal of state criminal cases thereto.

ARTICLE 68. RESERVED

ARTICLE 69. RESERVED

ARTICLE 70. APPELLATE COUNSEL

(a) The senior force judge advocate shall detail a judge advocate as appellate government counsel to represent the state in the review or appeal of cases specified in article 67a of this code and before any federal court when requested to do so by the state attorney general. Appellate government counsel must be a member in good standing of the bar of the highest court of the state to which the appeal is taken.

(b) Upon an appeal by the state, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.

(c) Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.

(d) Upon the request of an accused entitled to be so represented, the senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in subsections (b) and (c) of this article.

(e) An accused may be represented by civilian appellate counsel at no expense to the state.

ARTICLE 71. EXECUTION OF SENTENCE -- SUSPENSION OF SENTENCE

(a) If the sentence of the court-martial extends to dismissal or a dishonorable or bad-conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn under article 61 of this code, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by an appellate court prescribed in article 67a- of this code and is deemed final by the law of state where the judgment was had.

(b) If the sentence of the court-martial extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn under article 61 of this code, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review under article 64 of this code is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under article 60 of this code when so approved under that article.

ARTICLE 72. VACATION OF SUSPENSION

(a) Before the vacation of the suspension of a special court-martial sentence, which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on an alleged violation of probation. ~~The probationer shall be represented at the hearing by military counsel if the probationer so desires~~ special court-martial convening authority may detail a judge advocate who is certified under article 27(b) of this code to conduct the hearing. The probationer shall be represented at the hearing by military counsel if the probationer so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the officer exercising general court-martial jurisdiction over the probationer. If the officer exercising general court-martial jurisdiction vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions under article 57 in this code.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

ARTICLE 73. PETITION FOR A NEW TRIAL

At any time within ~~two~~ three (23) years after approval by the convening authority of a court-martial sentence, the accused may petition the adjutant general for a new trial on the grounds of newly discovered evidence or fraud on the court-martial.

ARTICLE 74. REMISSION AND SUSPENSION

(a) Any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the governor.

(b) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

ARTICLE 75. RESTORATION

(a) Under such regulations as may be prescribed, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the governor or his designated representative may substitute therefore a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of the accused's enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the governor or his designated representative may substitute therefore a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the governor may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

(d) The adjutant general may prescribe regulations, with such limitations as the adjutant general considers appropriate, governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.

ARTICLE 76. FINALITY OF PROCEEDINGS, FINDINGS, AND SENTENCES

The appellate review of records of trial provided by this code, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this code, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this code are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States and the several states, subject only to action upon a petition for a new trial as provided in article 73 of this code and to action under article 74 of this code.

ARTICLE 76a. LEAVE REQUIRED TO BE TAKEN PENDING REVIEW OF CERTAIN COURT-MARTIAL CONVICTIONS

Under regulations prescribed, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this article if the sentence, as approved under article 60 of this code, includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date on which the sentence is approved under article 60 of this code or at any time after such date, and such leave may be continued until the date on which action under this article is completed or may be terminated at any earlier time.

ARTICLE 76b. RESERVED

PART X. PUNITIVE ARTICLES

ARTICLE 77. PRINCIPALS

Any person subject to this code who:

- (1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or
- (2) Causes an act to be done which if directly performed by him would be punishable by this code;

is a principal.

ARTICLE 78. ACCESSORY AFTER THE FACT

Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

ARTICLE 79. CONVICTION OF OFFENSE CHARGED,
LESSER INCLUDED OFFENSES, AND ATTEMPTS

~~An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.~~

(a) In general. An accused may be found guilty of any of the following:

- (1) The offense charged;
- (2) A lesser included offense;
- (3) An attempt to commit the offense charged; or
- (4) An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

(b) Definition. In this article, the term "lesser included offense" means:

- (1) An offense that is necessarily included in the offense charged; and
- (2) Any lesser included offense so designated by regulation prescribed by the adjutant general.

(c) Regulatory authority. Any designation of a lesser included offense in a regulation referred to in subsection (b) of this article shall be reasonably included in the greater offense.

ARTICLE 80. ATTEMPTS

(a) An act done with specific intent to commit an offense under this code amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

ARTICLE 81. CONSPIRACY

Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one (1) or more of the conspirators does commits an act to effect the object of the conspiracy, be punished as a court-martial may direct.

ARTICLE 82. SOLICITATION

~~(a) Any person subject to this code who solicits or advises another or others to desert in violation of article 85 of this code or mutiny in violation of article 94 of this code shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense; but, if the offense solicited or advised is not committed or attempted, the person shall be punished as a court-martial may direct Soliciting commission of offenses generally. Any person subject to this code who solicits or advises another to commit an offense under this code, other than an offense specified in subsection (b) of this article, shall be punished as a court-martial may direct.~~

~~(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of article 99 of this code or sedition in violation of article 94 of this code shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense; but, if the offense solicited or advised is not committed, the person shall be punished as a court-martial may direct Soliciting desertion, mutiny, sedition, or misbehavior before the enemy. Any person subject to this code who solicits or advises another to violate article 85, article 94, or article 99:~~

~~(1) If the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and~~

~~(2) If the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.~~

ARTICLE 83. FRAUDULENT ENLISTMENT -- APPOINTMENT -- SEPARATION MALINGERING

~~Any person who: subject to this code who, for the purpose of avoiding work, duty, or service, feigns illness, physical disablement, mental lapse, or derangement, or who intentionally inflicts self-injury, shall be punished as a court-martial may direct.~~

~~(1) Procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or~~

~~(2) Procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;~~
~~shall be punished as a court-martial may direct.~~

ARTICLE 84. UNLAWFUL ENLISTMENT -- APPOINTMENT -- SEPARATION BREACH OF MEDICAL QUARANTINE

~~Any person subject to this code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order is ordered into medical quarantine by a person authorized to issue such order and who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority shall be punished as a court-martial may direct.~~

ARTICLE 85. DESERTION

(a) Any member of the state military forces who:

(1) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away there from permanently;

(2) Quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States;

is guilty of desertion.

(b) Any commissioned officer of the state military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away there from permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment as a court-martial may direct.

ARTICLE 86. ABSENCE WITHOUT LEAVE

Any person subject to this code who, without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

ARTICLE 87. MISSING MOVEMENT

Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

ARTICLE 87a. RESISTANCE, FLIGHT, BREACH OF ARREST, AND ESCAPE

Any person subject to this code who resists apprehension, flees from apprehension, breaks arrest, or escapes from custody or confinement shall be punished as a court-martial may direct.

ARTICLE 87b. OFFENSES AGAINST CORRECTIONAL CUSTODY AND RESTRICTION

(a) Escape from correctional custody. Any person subject to this code:

(1) Who is placed in correctional custody by a person authorized to do so;

(2) Who, while in correctional custody, is under physical restraint; and

(3) Who escapes from the physical restraint before being released from the physical restraint by proper authority;

shall be punished as a court-martial may direct.

(b) Breach of correctional custody. Any person subject to this code:

(1) Who is placed in correctional custody by a person authorized to do so;

(2) Who, while in correctional custody, is under restraint other than physical restraint; and

(3) Who goes beyond the limits of the restraint before being released from the correctional custody or relieved of the restraint by proper authority;

shall be punished as a court-martial may direct.

(c) Breach of restriction. Any person subject to this code:

(1) Who is ordered to be restricted to certain limits by a person authorized to do so; and

(2) Who, with knowledge of the limits of the restriction, goes beyond those limits before being released by proper authority;

shall be punished as a court-martial may direct.

ARTICLE 88. CONTEMPT TOWARD OFFICIALS

Any commissioned officer who uses contemptuous words against the president, the vice president, congress, the secretary of defense, the secretary of a military department, the secretary of homeland security, or the governor or legislature of the state shall be punished as a court-martial may direct.

ARTICLE 89. DISRESPECT TOWARD SUPERIOR COMMISSIONED OFFICER

(a) Disrespect. Any person subject to this code who behaves with disrespect toward his that person's superior commissioned officer shall be punished as a court-martial may direct.

(b) Assault. Any person subject to this code who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished: if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct; and, if the offense is committed at any other time, by such punishment as a court-martial may direct.

ARTICLE 90. ASSAULTING OR WILLFULLY DIS-OBEYING SUPERIOR COMMISSIONED OFFICER

Any person subject to this code who:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Willfully disobeys a lawful command of his superior commissioned officer;

shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

ARTICLE 91. INSUBORDINATE CONDUCT TOWARD WARRANT OFFICER, NONCOMMISSIONED OFFICER OR PETTY OFFICER

Any warrant officer or enlisted member who:

(1) Strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

(2) Willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

ARTICLE 92. FAILURE TO OBEY ORDER OR REGULATION

Any person subject to this code who:

- (1) Violates or fails to obey any lawful general order or regulation;
 - (2) Having knowledge of any other lawful order issued by a member of the state military forces, which it is his duty to obey, fails to obey the order; or
 - (3) Is derelict in the performance of his duties;
- shall be punished as a court-martial may direct.

ARTICLE 93. CRUELTY AND MALTREATMENT

Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

ARTICLE 93a. PROHIBITED ACTIVITY WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST

(a) Abuse of training leadership position. Any person subject to this code:

- (1) Who is an officer or a noncommissioned officer;
 - (2) Who is in a training leadership position with respect to a specially protected junior member of the state military forces; and
 - (3) Who engages in prohibited sexual activity with such specially protected junior member of the state military forces;
- shall be punished as a court-martial may direct.

(b) Abuse of position as military recruiter. Any person subject to this code:

- (1) Who is a military recruiter and engages in prohibited sexual activity with an applicant for state military service; or
 - (2) Who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the state military forces who is enlisted under a delayed entry program;
- shall be punished as a court-martial may direct.

(c) Consent. Consent is not a defense for any conduct at issue in a prosecution under this article.

(d) Definitions. In this article:

(1) "Specially protected junior member of the state military forces" means:

(A) A member of the state military forces who is assigned to, or is awaiting assignment to, basic training or other initial training, including a member who is enlisted under a delayed entry program;

(B) A member of the state military forces who is a cadet, an officer candidate, or a student in any other officer qualification program; and

(C) A member of the state military forces in any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification.

(2) "Training leadership position" means, with respect to a specially protected junior member of the state military forces, any instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit (ROTC), a training program for entry into the state military forces, or any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification.

(3) "Applicant for state military service" means a person who, under the regulations prescribed by the secretary concerned, is an applicant for original enlistment or appointment in the state military forces.

(4) "Military recruiter" means a person who, under regulation prescribed by the secretary concerned, has the primary duty to recruit persons for the state military forces.

(5) "Prohibited sexual activity" means, as specified in the regulations prescribed by the governor or his designated representative, inappropriate physical intimacy under circumstances described in such regulations.

ARTICLE 94. MUTINY OR SEDITION

(a) Any person subject to this code who:

(1) With intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

~~ARTICLE 95. RESISTANCE --- FLIGHT --- BREACH OF AR- REST --- ESCAPE OFFENSES BY SENTINEL OR LOOKOUT~~

~~Any person subject to this code who:~~

~~(1) Resists apprehension;~~

~~(2) Flees from apprehension;~~

~~(3) Breaks arrest; or~~

~~(4) Escapes from custody or confinement;~~

~~shall be punished as a court-martial may direct.~~

(a) Drunk or sleeping on post, or leaving post before being relieved. Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved shall be punished:

(1) If the offense is committed in time of war, by confinement of not more than ten (10) years or other punishment as a court-martial may direct; and

(2) If the offense is committed at any other time, by such punishment as a court-martial may direct.

(b) Loitering or wrongfully sitting on post. Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.

ARTICLE 95a. DISRESPECT TOWARD SENTINEL OR LOOKOUT

(a) Disrespectful language toward sentinel or lookout. Any person subject to this code who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout who is in the execution of duties as a sentinel or lookout shall be punished as a court-martial may direct.

(b) Disrespectful behavior toward sentinel or lookout. Any person subject to this code who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout who is in the execution of duties as a sentinel or lookout shall be punished as a court-martial may direct.

ARTICLE 96. RELEASING PRISONER WITHOUT
PROPER AUTHORITY -- DRINKING WITH PRISONER

(a) Any person subject to this code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

(b) Drinking with prisoner. Any person subject to this code who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.

ARTICLE 97. UNLAWFUL DETENTION

Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

ARTICLE 98. NONCOMPLIANCE WITH PROCEDURAL RULES MISCONDUCT AS PRISONER

Any person subject to this code who:

(1) ~~Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code For the purpose of securing favorable treatment by his captors, acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or~~

(2) ~~Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused While in a position of authority over such persons maltreats them without justifiable cause;~~
shall be punished as a court-martial may direct.

ARTICLE 99. MISBEHAVIOR BEFORE THE ENEMY

Any person subject to this code who before or in the presence of the enemy:

- (1) Runs away;
 - (2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;
 - (3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;
 - (4) Casts away his arms or ammunition;
 - (5) Is guilty of cowardly conduct;
 - (6) Quits his place of duty to plunder or pillage;
 - (7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;
 - (8) Willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or
 - (9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or its allies, to the state, or to any other state, when engaged in battle;
- shall be punished as a court-martial may direct.

ARTICLE 100. SUBORDINATE COMPELLING SURRENDER

Any person subject to this code who compels or attempts to compel the commander of any of the state military forces of the state, or of any other state, place, vessel, aircraft, or other military property, or of any body of mem-

bers of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

ARTICLE 101. IMPROPER USE OF COUNTERSIGN

Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another, who is entitled to receive and use the parole or countersign, a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

ARTICLE 102. FORCING A SAFEGUARD

Any person subject to this code who forces a safeguard shall be punished as a court-martial may direct.

ARTICLE 103. CAPTURED OR ABANDONED PROPERTY

(a) All persons subject to this code shall secure all public property taken for the service of the United States or the state and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this code who:

(1) Fails to carry out the duties prescribed in subsection (a) of this article;

(2) Buys, sells, trades, or in any way deals in or disposes of taken, captured, or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) Engages in looting or pillaging;

shall be punished as a court-martial may direct.

ARTICLE 103a. SPIES -- RESERVED

ARTICLE 103b. ESPIONAGE -- RESERVED

ARTICLE 1043c. AIDING THE ENEMY

Any person subject to this code who:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall be punished as a court-martial may direct.

ARTICLE 104. PUBLIC RECORD OFFENSES

Any person subject to this code who, willfully and unlawfully:

(1) Alters, conceals, removes, mutilates, obliterates, or destroys a public record; or

(2) Takes a public record with the intent to alter, conceal, remove, mutilate, obliterate, or destroy the public record;

shall be punished as a court-martial may direct.

ARTICLE 104a. FRAUDULENT ENLISTMENT, APPOINTMENT, OR SEPARATION

Any person who:

(1) Procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

ARTICLE 104b. UNLAWFUL ENLISTMENT, APPOINTMENT, OR SEPARATION

Any person subject to this code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

ARTICLE 105. MISCONDUCT AS PRISONER RESERVED

~~Any person subject to this code who, while in the hands of the enemy in time of war:~~

~~(1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or~~

~~(2) While in a position of authority over such persons maltreats them without justifiable cause;~~

~~shall be punished as a court-martial may direct.~~

ARTICLE 105a. FALSE OR UNAUTHORIZED PASS OFFENSES

(1) Wrongful making, altering, counterfeiting, tampering. Any person subject to this code who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

(2) Wrongful sale, etc. Any person subject to this code who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

(3) Wrongful use or possession. Any person subject to this code who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

ARTICLE 106. RESERVED IMPERSONATION OF AN OFFICER, NONCOMMISSIONED OR PETTY OFFICER, OR AGENT OR OFFICIAL

(1) In general. Any person subject to this code who, wrongfully and willfully, impersonates:

(a) An officer, a noncommissioned officer, or a petty officer;

(b) An agent of superior authority of one of the armed forces; or

(c) An officer of a government;

shall be punished as a court-martial may direct.

(2) Impersonation with intent to defraud. Any person subject to this code who, wrongfully and willfully and with intent to defraud, impersonates any person referred to in subsection (1) of this article shall be punished as a court-martial may direct.

(3) Impersonation of government official without intent to defraud. Any person subject to this code who, wrongfully and willfully and without intent to defraud, impersonates an official of a government by committing an act that exercises or asserts the authority of the office that the person claims to have shall be punished as a court-martial may direct.

ARTICLE 106a. RESERVED WEARING UNAUTHORIZED INSIGNIA,
DECORATION, BADGE, RIBBON, DEVICE, OR LAPEL BUTTON

Any person subject to this code:

(1) Who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and

(2) Who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing; shall be punished as a court-martial may direct.

ARTICLE 107. FALSE OFFICIAL STATEMENTS

~~Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document made in the line of duty, knowing it to be false, or makes any other false official statement made in the line of duty, knowing it to be false, shall be punished as a court-martial may direct.~~

(1) False official statements. Any person subject to this code who, with intent to deceive:

(a) Signs any false record, return, regulation, order, or other official document in the line of duty, knowing it to be false; or

(b) Makes any other false official statement in the line of duty, knowing it to be false;

shall be punished as a court-martial may direct.

(2) False swearing. Any person subject to this code:

(a) Who is on military orders;

(b) Who takes an oath that:

(i) Is administered in a manner in which such oath is required or authorized by law; and

(ii) Is administered by a person with authority to do so; and

(c) Who, upon such oath, makes or subscribes to a statement, if the statement is false and at the time of taking the oath the person does not believe the statement to be true, shall be punished as a court-martial may direct.

ARTICLE 107a. PAROLE VIOLATION

Any person subject to this code:

(1) Who, having been a prisoner as the result of a court-martial conviction or other criminal proceeding, is on parole with conditions; and

(2) Who violates the conditions of parole;

shall be punished as a court-martial may direct.

ARTICLE 108. MILITARY PROPERTY -- LOSS,
DAMAGE, DESTRUCTION OR WRONGFUL DISPOSITION

Any person subject to this code who, without proper authority:

- (1) Sells or otherwise disposes of;
- (2) Willfully or through neglect damages, destroys, or loses; or
- (3) Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States or of any state shall be punished as a court-martial may direct.

ARTICLE 108a. CAPTURED OR ABANDONED PROPERTY

(1) All persons subject to this code shall secure all public property taken for the service of the United States, or the state, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(2) Any person subject to this code who:

(a) Fails to carry out the duties prescribed in subsection (1) of this article;

(b) Buys, sells, trades, or in any way deals in or disposes of taken, captured, or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(c) Engages in looting or pillaging;

shall be punished as a court-martial may direct.

ARTICLE 109. PROPERTY OTHER THAN MILITARY
PROPERTY -- WASTE, SPOILAGE OR DESTRUCTION

Any person subject to this code who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of any state shall be punished as a court-martial may direct.

ARTICLE 109a. MAIL MATTER -- WRONGFUL TAKING, OPENING

(1) Taking. Any person subject to this code who, with the intent to obstruct the correspondence of, or to pry into the business or secrets of, any person or organization, while on military duty, wrongfully takes mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

(2) Opening, secreting, destroying, stealing. Any person subject to this code who, while on military duty, wrongfully opens, secretes, destroys, or steals mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

ARTICLE 110. IMPROPER HAZARDING OF VESSEL OR AIRCRAFT

(a) Willful and wrongful hazarding. Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States or any state military forces shall suffer such punishment as a court-martial may direct.

(b) Negligent hazarding. Any person subject to this code who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States or any state military forces shall be punished as a court-martial may direct.

ARTICLE 111. RESERVED LEAVING SCENE OF A VEHICLE ACCIDENT

(a) Driver. Any person on state military orders:

- (1) Who is the driver of a vehicle that is involved in an accident that results in personal injury or property damage; and
- (2) Who wrongfully leaves the scene of the accident;
- (3) Who, without providing assistance to an injured person; or
- (4) Who, without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

(b) Senior passenger. Any person subject to this code:

- (1) Who is passenger in a vehicle that is involved in an accident that results in personal injury or property damage;
- (2) Who is the superior commissioned or noncommissioned officer of the driver of the vehicle or is the commander of the vehicle; and
- (3) Who wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident;

(i) Without providing assistance to an injured person; or

(ii) Without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

ARTICLE 112. DRUNK ON DUTY DRUNKENNESS AND OTHER INCAPACITATION OFFENSES

~~Any person subject to this code other than a sentinel or lookout who is found drunk on duty shall be punished as a court-martial may direct.~~

(1) Drunk on duty. Any person subject to this code who is drunk on duty shall be punished as a court-martial may direct.

(2) Incapacitation for duty from drunkenness or drug use. Any person subject to this code who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

(3) Drunk prisoner. Any person subject to this code who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.

(4) Definitions. "Drunk" means any intoxication sufficient to impair the rational and full exercise of the mental or physical faculties, or an alcohol concentration of 0.08 or more as shown by an analysis of the person's blood, breath, or urine subject to the testing standards within title 18, Idaho Code. "Incapacitated" means unfit or unable to perform duties properly as a result of prior alcohol consumption.

(5) Testing. Commanders may order the person to provide a breath, blood, or urine sample if the commander has probable cause to believe that the person is drunk or incapacitated while on duty. Testing under this article will be performed by a peace officer, hospital, or health care professional in the jurisdiction in which a violation of this article has occurred. No military member, peace officer, hospital, or health care professional, as defined in title 18, Idaho Code, shall incur any civil or criminal liability for any act arising out of administering an evidentiary test for alcohol concentration or for the presence of drugs or other intoxicating substances at the request of a commander. In the event a person ordered to provide a breath, blood, or urine sample refuses to do so, that person may be punished for violating a lawful order as a court-martial may direct.

ARTICLE 112a. WRONGFUL USE, POSSESSION, ETC., OF CONTROLLED SUBSTANCES

(a) Any person subject to this code who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces of the United States or of any state military forces a substance described in subsection (b) of this article shall be punished as a court-martial may direct.

(b) The substances referred to in subsection (a) of this article are the following:

(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance.

(2) Any substance not specified in paragraph (1) of this subsection that is listed on a schedule of controlled substances prescribed by the president for the purposes of the uniform code of military justice of the armed forces of the United States, 10 U.S.C. section 801 et seq.

(3) Any other substance not specified in paragraph (1) of this subsection or contained on a list prescribed by the president under paragraph (2) of this subsection that is listed in schedules I through V of article 202 of the controlled substances act, 21 U.S.C. section 812.

ARTICLE 113. ~~MISBEHAVIOR OF SENTINEL~~ RESERVED

~~Any sentinel or lookout who is found drunk or sleeping upon his post or leaves it before being regularly relieved shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment as a court-martial may direct.~~

ARTICLE 114. DUELING ENDANGERMENT OFFENSES

~~Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.~~

(a) Reckless endangerment. Any person subject to this code who engages in conduct that:

(1) Is wrongful and reckless or is wanton; and

(2) Is likely to produce death or grievous bodily harm to another person;

shall be punished as a court-martial may direct.

(b) Dueling. Any person subject to this code:

(1) Who fights or promotes, or is concerned in or connives at fighting, a duel; or

(2) Who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority;

shall be punished as a court-martial may direct.

(c) Firearm discharge, endangering human life. Any person subject to this code who negligently discharges a firearm under circumstances such as to endanger human life shall be punished as a court-martial may direct.

(d) Carrying concealed weapon. Any person subject to this chapter who, while on military orders, unlawfully or in violation of the adjutant general's policy or regulation, carries a dangerous weapon concealed on or about his person shall be punished as a court-martial may direct.

ARTICLE 115. MALINGERING COMMUNICATING THREATS

~~Any person subject to this code who for the purpose of avoiding work, duty, or service:~~

~~(1) Feigns illness, physical disablement, mental lapse, or derangement; or~~

~~(2) Intentionally inflicts self-injury;~~

~~shall be punished as a court-martial may direct~~ Communicating threats generally. Any person subject to this code who wrongfully communicates a threat to injure the person, property, or reputation of another shall be punished as a court-martial may direct.

(2) Communicating threat to use explosive, etc. Any person subject to this code who wrongfully communicates a threat to injure the person or property of another by use of:

(a) An explosive;

(b) A weapon of mass destruction;

(c) A biological or chemical agent, substance, or weapon; or

(d) A hazardous material;

shall be punished as a court-martial may direct.

(3) Communicating false threat concerning use of explosive, etc. Any person subject to this code who maliciously communicates a false threat concerning injury to the person or property of another by use of:

(a) An explosive;

(b) A weapon of mass destruction;

(c) A biological or chemical agent, substance, or weapon; or

(d) A hazardous material;

shall be punished as a court-martial may direct. The term "false threat" as used in this subsection means a threat that, at the time the threat is communicated, is known to be false by the person communicating the threat.

ARTICLE 116. RIOT OR BREACH OF PEACE

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

ARTICLE 117. PROVOKING SPEECHES OR GESTURES

Any person subject to this code who uses provoking or reproachful words or gestures towards any other person subject to this code shall be punished as a court-martial may direct.

ARTICLE 118. RESERVED

ARTICLE 119. RESERVED

ARTICLE 120. RESERVED

ARTICLE 121. RESERVED

ARTICLE 122. RESERVED

ARTICLE 123. RESERVED OFFENSES CONCERNING GOVERNMENT COMPUTERS

(a) In general. Any person subject to this chapter who:

(1) Knowingly accesses a government computer, with an unauthorized purpose, and by doing so obtains classified information, with reason to believe such information could be used to the injury of the United States or the state, or to the advantage of any foreign nation, and

intentionally communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted such information to any person not entitled to receive it;

(2) Intentionally accesses a government computer, with an unauthorized purpose, and thereby obtains classified or other protected information from any such government computer; or

(3) Knowingly causes the transmission of a program, information, code, or command and, as a result of such conduct, intentionally causes damage without authorization to a government computer;

shall be punished as a court-martial may direct.

(b) Definition. In this article, the term "government computer" means a computer owned or operated by or on behalf of the United States government or state.

ARTICLE 123a. RESERVED

ARTICLE 124. RESERVED

ARTICLE 124a. BRIBERY

(a) Asking for, accepting, or receiving a thing of value. Any person subject to this code:

(1) Who occupies an official position or who has official duties with the state military forces; and

(2) Who wrongfully asks, accepts, or receives a thing of value with the intent to have the person's decisions or actions influenced with respect to an official matter in which the United States or the state is interested;

shall be punished as a court-martial may direct.

(b) Promising, offering, or giving a thing of value. Any person subject to this code who wrongfully promises, offers, or gives a thing of value to another person who occupies an official position or who has official duties with the state military forces, with the intent to influence the decision or action of another person with respect to an official matter in which the United States or the state is interested, shall be punished as a court-martial may direct.

ARTICLE 124b. GRAFT

(a) Asking for, accepting, or receiving a thing of value. Any person subject to this code:

(1) Who occupies an official position or who has official duties with the state military forces; and

(2) Who wrongfully asks, accepts, or receives a thing of value as compensation for or in recognition of services rendered or to be rendered by the person with respect to an official matter in which the United States or the state is interested;

shall be punished as a court-martial may direct.

(b) Promising, offering, or giving a thing of value. Any person subject to this code who wrongfully promises, offers, or gives a thing of value to another person who occupies an official position or who has official duties with the state military forces, as compensation for or in recognition of services rendered or to be rendered by the other person with respect to an official matter in which the United States or the state is interested, shall be punished as a court-martial may direct.

ARTICLE 125. RESERVED

ARTICLE 126. RESERVED

ARTICLE 127. RESERVED

ARTICLE 128. RESERVED

ARTICLE 129. RESERVED

ARTICLE 130. RESERVED

ARTICLE 131. RESERVED

ARTICLE 131b. OBSTRUCTING JUSTICE

Any person subject to this code who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending pursuant to this code, with intent to influence, impede, or otherwise obstruct the due administration of justice, shall be punished as a court-martial may direct.

ARTICLE 131c. MISPRISION OF A SERIOUS OFFENSE

In general. Any person subject to this code:

(1) Who knows that another person has committed a serious offense; and
(2) Who wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible;
shall be punished as a court-martial may direct.

ARTICLE 131d. WRONGFUL REFUSAL TO TESTIFY

Any person subject to this code who, in the presence of a court-martial, a board of officers, a military commission, a court of inquiry, a preliminary hearing, or an officer taking a deposition of or for the state military forces or for the United States, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.

ARTICLE 131e. PREVENTION OF AUTHORIZED SEIZURE OF PROPERTY

Any person subject to this code who, knowing that one (1) or more persons authorized to make searches and seizures are seizing, are about to seize, or are endeavoring to seize property, destroys, removes, or otherwise disposes of the property with intent to prevent the seizure thereof shall be punished as a court-martial may direct.

ARTICLE 131f. NONCOMPLIANCE WITH PROCEDURAL RULES

Any person subject to this code who:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this chapter; or
(2) Knowingly and intentionally fails to enforce or comply with any provision of this chapter regulating the proceedings before, during, or after trial of an accused;
shall be punished as a court-martial may direct.

ARTICLE 131g. WRONGFUL INTERFERENCE WITH ADVERSE ADMINISTRATIVE PROCEEDING

Any person subject to this code who, having reason to believe that an adverse administrative proceeding is pending against any person subject to this code, wrongfully acts with the intent:

- (1) To influence, impede, or obstruct the conduct of the proceeding; or
 - (2) Otherwise to obstruct the due administration of justice;
- shall be punished as a court-martial may direct.

ARTICLE 132. FRAUDS AGAINST THE GOVERNMENT RETALIATION

~~Any person subject to this code who:~~

- ~~(1) Knowing it to be false or fraudulent:~~
 - ~~(A) Makes any claim against the United States, the state, or any officer thereof; or~~
 - ~~(B) Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;~~
 - ~~(2) For the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:~~
 - ~~(A) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;~~
 - ~~(B) Makes any oath, affirmation or certification to any fact or to any writing or other paper knowing the oath, affirmation or certification to be false; or~~
 - ~~(C) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;~~
 - ~~(3) Having charge, possession, custody, or control of any money or other property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or~~
 - ~~(4) Being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state;~~
- ~~shall, upon conviction, be punished as a court-martial may direct.~~

(a) Any person subject to this code who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication:

- (1) Wrongfully takes or threatens to take an adverse personnel action against any person; or
 - (2) Wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;
- shall be punished as a court-martial may direct.

(b) Definitions. In this article:

(1) "Protected communication" means the following:

- (i) A lawful communication to a member of congress or an inspector general; or
- (ii) A communication to a covered individual or organization in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination; or

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) "Inspector general" has the meaning given that term in 10 U.S.C. 1034.

(3) "Covered individual or organization" means any recipient of a communication specified in clauses (i) through (vi) of 10 U.S.C. 1034(b) (1) (B).

ARTICLE 133. CONDUCT UNBECOMING AN OFFICER AND A GENTLEMAN

Any commissioned officer, cadet, candidate, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

ARTICLE 134. GENERAL ARTICLE

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces and all conduct of a nature to bring discredit upon the state military forces shall be taken cognizance of by a court-martial and punished at the discretion of a military court. Offenses which may be punished under this section article include, but are not limited to, those offenses set out in the manual for courts-martial as punishable under this article of the uniform code of military justice, those offenses that violate the criminal laws of the state where the offense occurred, and those offenses that violate the criminal laws of the United States. However, where a crime constitutes an offense that violates both this code and the criminal laws of the state where the offense occurs or criminal laws of the United States, jurisdiction of the military court must be determined in accordance with article 2 (b) of this code.

PART XI. MISCELLANEOUS PROVISIONS

ARTICLE 135. COURTS OF INQUIRY

(a) Courts of inquiry to investigate any matter of concern to the state military forces may be convened by any person authorized to convene a general court-martial, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three (3) or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

(c) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

ARTICLE 136. AUTHORITY TO ADMINISTER OATHS AND TO ACT AS NOTARY

(a) The following persons may administer oaths for the purposes of military administration, including military justice:

- (1) All judge advocates.
- (2) All summary courts-martial.
- (3) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.
- (4) All commanding officers of the naval militia.
- (5) All other persons designated by regulations of the armed forces of the United States or by statute.

(b) The following persons may administer oaths necessary in the performance of their duties:

- (1) The president, military judge, and trial counsel for all general and special courts-martial.
- (2) The president and the counsel for the court of any court of inquiry.
- (3) All officers designated to take a deposition.
- (4) All persons detailed to conduct an investigation.
- (5) All recruiting officers.
- (6) All other persons designated by regulations of the armed forces of the United States or by statute.

(c) The signature without seal of any such person, together with the title of his office, is prima facie evidence of the person's authority.

ARTICLE 137. ARTICLES TO BE EXPLAINED

(a) The articles of this code specified in subsection (c) of this article shall be carefully explained to each enlisted member at the time of, or within thirty (30) days after, the member's initial entrance into a duty status with the state military forces.

(b) Such articles shall be explained again:

- (1) After the member has completed basic or recruit training; and
- (2) At the time when the member reenlists.

(c) This subsection applies with respect to articles 2, 3, 7 through 15, 25, 27, 31, 37, 38, 55, 77 through 134, and 137 through 139 of this code.

(d) The text of the code and of the regulations prescribed under such code shall be made available to a member of the state military forces, upon request by the member, for the member's personal examination.

ARTICLE 138. COMPLAINTS OF WRONGS

Any member of the state military forces who believes himself wronged by a commanding officer, and who, upon due application to that commanding officer, is refused redress may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained

of, and shall, as soon as possible, send to the adjutant general a true statement of that complaint, with the proceedings had thereon.

ARTICLE 139. REDRESS OF INJURIES TO PROPERTY

(a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the state military forces, that officer may, under such regulations prescribed, convene a board to investigate the complaint. The board shall consist of from one (1) to three (3) commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by that officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for payment to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

ARTICLE 140. DELEGATION BY THE GOVERNOR

The governor may delegate any authority vested in the governor under this code and provide for the sub-delegation of any such authority, except the power given the governor by article 22 of this code.

ARTICLE 141. PAYMENT OF FEES, COSTS AND EXPENSES

The fees and authorized travel expenses of all witnesses, experts, victims, court reporters, and interpreters, fees for the service of process, the costs of collection, apprehension, detention and confinement, and all other necessary expenses of prosecution and the administration of military justice, to include courts-martial and nonjudicial punishment, not otherwise payable by any other source, shall be paid out of the military division support fund as established in section 46-806, Idaho Code.

ARTICLE 142. PAYMENT OF FINES AND DISPOSITION THEREOF

(a) Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the state and delivered to the court or imposing officer or to a person executing their process. Fines may be collected in the following manner:

- (1) By cash or money order;
- (2) By retention of any pay or allowances due or to become due the person fined from any state or the United States;
- (3) By garnishment or levy, together with costs, on the wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.

(b) Any sum so received or retained shall be deposited in the military division support fund as established in section 46-806, Idaho Code, or to whomever the court so directs.

ARTICLE 143. UNIFORMITY OF INTERPRETATION

This code shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the uniform code of military justice, 10 U.S.C. chapter 47.

ARTICLE 144. IMMUNITY FOR ACTION OF MILITARY COURTS

All persons acting under the provisions of this code, whether as a member of the military or as a civilian, shall be immune from any personal liability for any of the acts or omissions which they did or failed to do as part of their duties under this code.

ARTICLE 145. SEVERABILITY

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

ARTICLE 146. SHORT TITLE

This act may be cited as the "~~Uniform State~~Idaho Code of Military Justice" (USICMJ).

ARTICLE 147. TIME OF TAKING EFFECT

This act takes effect July 1, 2015~~9~~.

~~ARTICLE 148. TIME OF TAKING EFFECT~~

~~Upon enactment and the effective date, this law supersedes all existing statutes, ordinances, directives, rules, regulations, orders and other laws in the state covered by the subject matter of this law, and all such statutes, ordinances, directives, rules, regulations, orders and other laws are hereby repealed.~~

Approved March 19, 2019

CHAPTER 114
(H.B. No. 150)

AN ACT

RELATING TO OPEN MEETINGS; AMENDING SECTION 74-206, IDAHO CODE, TO PROVIDE THAT THE GOVERNING BOARD OF A PUBLIC SCHOOL DISTRICT, CHARTER DISTRICT, OR PUBLIC CHARTER SCHOOL MAY ENTER INTO EXECUTIVE SESSION ON A SIMPLE ROLL CALL MAJORITY VOTE UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 74-206, Idaho Code, be, and the same is hereby amended to read as follows:

74-206. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 74-206A (1) (a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act chapter to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

(4) If the governing board of a public school district, charter district, or public charter school has vacancies such that fewer than two-thirds (2/3) of board members have been seated, then the board may enter into executive session on a simple roll call majority vote.

CHAPTER 115
(H.B. No. 160)

AN ACT

RELATING TO PURCHASING BY POLITICAL SUBDIVISIONS; AMENDING SECTION 67-2808, IDAHO CODE, TO PROVIDE THAT A SOLE SOURCE DECLARATION MAY BE WITHOUT AN EMERGENCY DECLARATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2808, Idaho Code, be, and the same is hereby amended to read as follows:

67-2808. EMERGENCY EXPENDITURES -- AND SOLE SOURCE EXPENDITURES. (1) Emergency expenditures.

(a) The governing board of a political subdivision may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money if:

- (i) There is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster;
- (ii) It is necessary to do emergency work to prepare for the national or local defense; or
- (iii) It is necessary to do emergency work to safeguard life, health, or property.

(b) Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with formal bidding procedures.

(2) Sole source expenditures.

(a) The governing board of a political subdivision may declare that there is only one (1) vendor if there is only one (1) vendor for the public works construction, services, or personal property to be acquired. For purposes of this subsection, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available and shall include, but not be limited to, the following situations:

- (i) Where public works construction, services, or personal property is required to respond to a life-threatening situation or a situation which that is immediately detrimental to the public welfare or property;
- (ii) Where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is the paramount consideration;
- (iii) Where a sole supplier's item is needed for trial use or testing;
- (iv) The purchase of mass-produced movies, videos, books, or other copyrighted materials;
- (v) The purchase of public works construction, services, or personal property for which it is determined there is no functional equivalent;
- (vi) The purchase of public utility services;
- (vii) The purchase of products, merchandise, or trademarked goods for resale at a political subdivision facility; or
- (viii) Where competitive solicitation is impractical, disadvantageous, or unreasonable under the circumstances.

(b) Upon making the declaration that there is only one (1) vendor for public works construction, services, or personal property, unless the public works construction, services, or personal property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source

procurement shall be published in the official newspaper of the political subdivision at least fourteen (14) calendar days prior to the award of the contract.

(c) A sole source declaration made pursuant to the provisions of this subsection may be made without an emergency declaration under subsection (1) of this section.

Approved March 19, 2019

CHAPTER 116
(H.B. No. 165)

AN ACT

RELATING TO INCOME TAX REFUNDS; REPEALING SECTION 63-3067A, IDAHO CODE, RELATING TO INCOME TAX REFUND OR PAYMENT DESIGNATIONS; REPEALING SECTION 63-3067B, IDAHO CODE, RELATING TO INCOME TAX REFUND OR PAYMENT DESIGNATIONS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3067A, IDAHO CODE, TO PROVIDE FOR THE DESIGNATION OF AN INCOME TAX REFUND OR PAYMENT TO CERTAIN TRUST ACCOUNTS; AMENDING SECTION 63-3067C, IDAHO CODE, TO REVISE PROVISIONS REGARDING MINIMUM COLLECTION THRESHOLDS, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL REPORT ANNUALLY ON THE TRUST ACCOUNTS FAILING TO MEET THE THRESHOLD, TO REMOVE CERTAIN CODE REFERENCES, AND TO REDESIGNATE THE SECTION; AMENDING SECTION 38-136, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 65-209, IDAHO CODE, TO REMOVE A CODE REFERENCE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3067A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 63-3067B, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3067A, Idaho Code, and to read as follows:

63-3067A. INCOME TAX REFUND OR PAYMENT DESIGNATION BY INDIVIDUALS TO TRUST ACCOUNTS. (1) Every individual who:

(a) Has a refund due and payable for overpayment of taxes under this chapter may designate all or any portion thereof to be deposited in a trust account specified in subsection (3) of this section; or

(b) Has an income tax liability may, in addition to his tax obligation, include a donation to be deposited in a trust account specified in subsection (3) of this section.

(2) A designation under subsection (1) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(3) The trust accounts authorized to receive moneys designated under subsection (1) of this section are:

(a) The fish and game set-aside account created in section 36-111, Idaho Code;

(b) The children's trust fund created in section 39-6007, Idaho Code;

(c) The special olympics Idaho fund created in section 57-823, Idaho Code;

(d) The Idaho guard and reserve family support fund created in section 57-820, Idaho Code;

(e) The Idaho food bank fund created in section 57-824, Idaho Code;

(f) The veterans support fund created in section 65-209, Idaho Code; and

(g) The American red cross of greater Idaho fund created in section 57-821, Idaho Code.

(4) Prior to the distribution of funds into any of the trust accounts specified in subsection (3) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars (\$3,000) from each account for start-up costs during the first year of collections, and three thousand dollars (\$3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the state tax commission.

SECTION 4. That Section 63-3067C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067CB. SUNSETTING DESIGNATIONS. (1) The designations referred to in section 63-3067A ~~or 63-3067B~~, Idaho Code, shall expire and no longer appear on the income tax return form when:

(a) For each of two (2) consecutive calendar years, the amount received by the state tax commission that is designated for a particular trust fund named in section 63-3067A ~~or 63-3067B~~, Idaho Code, fails to equal or exceed twenty-five thousand dollars (\$250,000); and

(b) After one (1) year when collections fail to equal or exceed twenty-five thousand dollars (\$250,000), the state tax commission has notified the appropriate agency that:

(i) The amount received by the state tax commission that is designated for that particular trust fund failed to equal or exceed twenty-five thousand dollars (\$250,000); and

(ii) ~~If t~~The amount received by the state tax commission that is designated for the particular trust fund in the next subsequent year fails to equal or exceed twenty-five thousand dollars (\$250,000).

(2) As used in this section, "appropriate agency" means the agency of the state of Idaho that is responsible for administering the programs benefiting from the fund to which amounts designated under section 63-3067A ~~or 63-3067B~~, Idaho Code, are distributed. If no agency of the state of Idaho has such responsibility, the term means such other private or public entity that is the principal beneficiary of the funds.

(3) The state tax commission shall report annually to the house revenue and taxation committee on the trust funds that have failed to meet the necessary monetary threshold for collections for the prior two (2) years.

SECTION 5. That Section 38-136, Idaho Code, be, and the same is hereby amended to read as follows:

38-136. COMMUNITY FORESTRY TRUST ACCOUNT. (1) There is hereby created within the dedicated fund of the state treasury the community forestry trust account.

(2) The account shall consist of the following:

(a) ~~Moneys as provided in section 63-3067B, Idaho Code;~~

~~(b) Donations, gifts, and grants from any source;~~

(eb) Any other moneys which may hereinafter be provided by law; and

(dc) Interest earned by the account.

(3) The director or designee of the department of lands may authorize disbursements of moneys from the account for projects related to community forestry.

(4) Not less than thirty-five percent (35%) of the funding for an approved project shall be provided by the entity sponsoring or proposing the project or program. Contributions such as materials, personnel, supplies, or services may be considered as all or part of the funding provided by the petitioning entity.

SECTION 6. That Section 65-209, Idaho Code, be, and the same is hereby amended to read as follows:

65-209. VETERANS SUPPORT FUND. (1) There is hereby created in the state treasury the "Veterans Support Fund" to which shall be credited:

(a) The moneys designated under sections 63-3067A and ~~63-3067B~~, Idaho Code, and the moneys designated under section 49-403B, Idaho Code;

(b) Gifts, grants, contributions and bequests to the fund;

(c) Interest earned on the investment of idle moneys in the fund, which shall be paid to the fund; and

(d) All other moneys as may be provided by law.

(2) Moneys in the fund shall be used exclusively for the purposes of programs to support veterans and to defray the costs of administering gold star license plate eligibility pursuant to section 49-403B, Idaho Code. Moneys in the fund shall be continuously appropriated for such purposes.

(3) Disbursements of moneys from the fund shall be made upon authorization of the administrator of the division of veterans services.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2019.

Approved March 19, 2019

CHAPTER 117
(H.B. No. 200)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PUBLIC HEALTH TRUST FUND FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FROM THE IDAHO MILLENNIUM INCOME FUND FOR FISCAL YEAR 2020; PROVIDING FUNDING TO IMPROVE HEALTH TRANSFORMATIONS; AND PROVIDING FUNDING FOR CITIZEN REVIEW PANELS.

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

SECTION 1. There is hereby appropriated to the Public Health Districts and the State Controller shall transfer \$9,887,900 from the General Fund to the Public Health Trust Fund in accordance with the provisions of Section 39-425, Idaho Code, for the period July 1, 2019, through June 30, 2020.

SECTION 2. There is hereby appropriated to the Public Health Districts \$768,900 from the Idaho Millennium Income Fund for the period July 1, 2019, through June 30, 2020, for the purpose of no-cost cessation services to Idahoans who want to quit tobacco use, with a primary emphasis on youth and pregnant women. These moneys shall not be considered general state aid for the purpose of Section 39-425, Idaho Code.

SECTION 3. IMPROVING HEALTH TRANSFORMATIONS. Of the amount appropriated in Section 1 of this act, \$119,400 shall be distributed to Public Health District 4 for the purpose of improving health transformations. These moneys shall not be considered general state aid for the purpose of Section 39-425, Idaho Code, and shall not be allocated through a board of trustees formula pursuant to Section 39-411, Idaho Code.

SECTION 4. CITIZEN REVIEW PANELS. Of the amount appropriated in Section 1 of this act, \$136,500 shall be distributed to each Public Health District at one-seventh (1/7) of the total amount, which shall be used for the Citizen Review Panels pursuant to Senate Bill No. 1341, as enacted by the Second Regular Session of the Sixty-fourth Idaho Legislature. These moneys received by the Public Health Districts shall not be considered general state aid for the purpose of Section 39-425, Idaho Code, nor shall the moneys be allocated through a board of trustees formula pursuant to Section 39-411, Idaho Code.

Approved March 19, 2019

CHAPTER 118
(H.B. No. 215)

AN ACT

RELATING TO THE APPROPRIATION TO THE STEM ACTION CENTER FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE STEM ACTION CENTER FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING FOR AN APPROPRIATION AND TRANSFER OF MONEYS TO THE STEM EDUCATION FUND.

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

SECTION 1. There is hereby appropriated to the STEM Action Center the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$507,400	\$2,082,200		\$2,589,600
STEM Education				
Fund	71,900	1,929,300	\$5,000	2,006,200
Miscellaneous Revenue				
Fund	<u>0</u>	<u>100,000</u>	<u>0</u>	<u>100,000</u>
TOTAL	\$579,300	\$4,111,500	\$5,000	\$4,695,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the STEM Action Center is authorized no more than six (6.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. STEM EDUCATION FUND TRANSFER. There is hereby appropriated to the STEM Action Center and the State Controller shall transfer \$1,000,000 from the General Fund to the STEM Education Fund on July 1, 2019, or as soon thereafter as practicable, for the period July 1, 2019, through June 30, 2020.

Approved March 19, 2019

CHAPTER 119
(H.B. No. 219)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2020; AND AMENDING SECTION 33-1004E, IDAHO CODE, TO INCREASE THE BASE SALARY FOR ADMINISTRATORS.

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

SECTION 1. The following amount shall be expended for the Public Schools Educational Support Program's Division of Administrators for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund \$98,570,500

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund \$98,570,500

SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Administrators the following amount to be expended from the listed fund for the period July 1, 2019, through June 30, 2020:

FROM:

Public School Income Fund \$98,570,500

SECTION 4. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

(1) To determine the apportionment for instructional staff, take the amounts indicated on the career ladder table plus the amounts associated with the additional education allocation amounts pursuant to section 33-1004B, Idaho Code, and calculate the weighted average. The amount so determined shall be multiplied by the district staff allowance for instruc-

tional staff determined as provided in section 33-1004(2), Idaho Code. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than the minimum dollar amount on the career ladder residency compensation rung pursuant to section 33-1004B, Idaho Code, for the applicable fiscal year.

(2) If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall receive two thousand dollars (\$2,000) per year for five (5) years from the year in which national board certification was earned. The district staff allotment shall be increased by two thousand dollars (\$2,000) for each national board-certified instructional staff member who earned national board certification; provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase shall be those who have been recognized as national board-certified teachers as of July 1 of each year.

(3) To determine the apportionment for pupil service staff, take the amounts indicated on the career ladder table plus the amounts associated with the additional education allocation amounts pursuant to section 33-1004B, Idaho Code, and calculate the weighted average. If the district does not employ any pupil service staff, the district's pupil service staff average salary shall equal the district's instructional staff average salary for purposes of calculating pupil service salary-based apportionment. The amount so determined shall be multiplied by the district staff allowance for pupil service staff determined pursuant to section 33-1004(3), Idaho Code. Full-time pupil service staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. The resulting amount is the district's salary-based apportionment for pupil service staff. No full-time pupil service staff member shall be paid less than the minimum dollar amount on the career ladder residency compensation rung pursuant to section 33-1004B, Idaho Code, for the applicable fiscal year.

(4) To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. If the district does not employ any administrative staff, the district administrative index shall equal the statewide average index for purposes of calculating administrative salary-based apportionment. The district administrative staff index shall be multiplied by the base salary of ~~thirty-six thousand one hundred eighty-six dollars (\$36,186)~~ thirty-seven thousand two hundred seventy-two dollars (\$37,272). The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(4), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

(5) To determine the apportionment for classified staff, multiply twenty-one thousand six hundred sixty-five dollars (\$21,665) by the district classified staff allowance determined as provided in section 33-1004(5), Idaho Code. The amount so determined is the district's apportionment for classified staff.

(6) The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections (1), (2), (3), (4) and (5) of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

Approved March 19, 2019

CHAPTER 120
(H.B. No. 220)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF TEACHERS FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF TEACHERS FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF TEACHERS FOR FISCAL YEAR 2020; DIRECTING THE USE OF MONEYS FOR PROFESSIONAL DEVELOPMENT; DEFINING "DISTRIBUTED"; AND PROVIDING REQUIREMENTS REGARDING THE COLLEGE AND CAREER ADVISORS AND STUDENT MENTORS PROGRAM.

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

SECTION 1. The following amounts shall be expended for the Public Schools Educational Support Program's Division of Teachers for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$1,018,196,800
Federal Grant Fund	<u>15,000,000</u>
TOTAL	\$1,033,196,800

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$1,018,196,800
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SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Teachers the following amounts to be expended from the listed funds for the period July 1, 2019, through June 30, 2020:

FROM:

Public School Income Fund	\$1,018,196,800
Federal Grant Fund	<u>15,000,000</u>
TOTAL	\$1,033,196,800

SECTION 4. PROFESSIONAL DEVELOPMENT. Of the moneys appropriated in Section 3 of this act, \$17,850,000 shall be distributed for professional development that supports instructors and pupil services staff to increase student learning, mentoring, and collaboration. Professional development efforts should be measurable, provide the instructors and pupil services staff with a clear understanding of their progress, be incorporated into

their performance evaluations and, to the extent possible, be included in the school district or charter school continuous improvement plans required by Section 33-320, Idaho Code. Funding shall be distributed by a formula prescribed by the Superintendent of Public Instruction, and the Superintendent of Public Instruction shall track usage and effectiveness of professional development efforts at the state and local levels.

SECTION 5. DEFINITION. For the purposes of this act, "distributed" means moneys that are transferred to school districts and public charter schools, with no funds withheld for any other contract or administrative costs.

SECTION 6. COLLEGE AND CAREER ADVISORS AND STUDENT MENTORS PROGRAM EVALUATION. The College and Career Advisors and Student Mentors Program shall continue to have an independent, external evaluation that includes an analysis of key performance indicators of student outcomes. The results of the updated evaluation shall be reported to the Joint Finance-Appropriations Committee and the Senate and House Education committees no later than February 1, 2020, on the program design, uses of funds, program effectiveness, and any other relevant matters.

Approved March 19, 2019

CHAPTER 121
(H.B. No. 221)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF OPERATIONS FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF OPERATIONS FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF OPERATIONS FOR FISCAL YEAR 2020; AMENDING SECTION 33-1004E, IDAHO CODE, TO INCREASE THE BASE SALARY FOR CLASSIFIED STAFF; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT AND DIVIDING THAT AMOUNT INTO TWO DISTRIBUTIONS; DIRECTING THE USE OF APPROPRIATION FOR INFORMATION TECHNOLOGY STAFFING COSTS; DIRECTING THE USE OF APPROPRIATION FOR CLASSROOM TECHNOLOGY, WIRELESS INFRASTRUCTURE, AND INSTRUCTIONAL MANAGEMENT SYSTEMS; DEFINING "DISTRIBUTED"; AND EXEMPTING THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. The following amounts shall be expended for the Public Schools Educational Support Program's Division of Operations for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$660,315,600
Public Schools Other Income Fund	8,000,000
Public School Endowment Earnings Reserve Fund	<u>51,260,000</u>
TOTAL	\$719,575,600

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund \$660,315,600

SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Operations the following amount to be expended from the listed fund for the period July 1, 2019, through June 30, 2020:

FROM:

Public School Income Fund \$719,575,600

SECTION 4. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

(1) To determine the apportionment for instructional staff, take the amounts indicated on the career ladder table plus the amounts associated with the additional education allocation amounts pursuant to section 33-1004B, Idaho Code, and calculate the weighted average. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than the minimum dollar amount on the career ladder residency compensation rung pursuant to section 33-1004B, Idaho Code, for the applicable fiscal year.

(2) If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall receive two thousand dollars (\$2,000) per year for five (5) years from the year in which national board certification was earned. The district staff allotment shall be increased by two thousand dollars (\$2,000) for each national board-certified instructional staff member who earned national board certification; provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase shall be those who have been recognized as national board-certified teachers as of July 1 of each year.

(3) To determine the apportionment for pupil service staff, take the amounts indicated on the career ladder table plus the amounts associated with the additional education allocation amounts pursuant to section 33-1004B, Idaho Code, and calculate the weighted average. If the district does not employ any pupil service staff, the district's pupil service staff average salary shall equal the district's instructional staff average salary for purposes of calculating pupil service salary-based apportionment. The amount so determined shall be multiplied by the district staff allowance for pupil service staff determined pursuant to section 33-1004(3), Idaho Code. Full-time pupil service staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. The resulting amount is the district's

salary-based apportionment for pupil service staff. No full-time pupil service staff member shall be paid less than the minimum dollar amount on the career ladder residency compensation rung pursuant to section 33-1004B, Idaho Code, for the applicable fiscal year.

(4) To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. If the district does not employ any administrative staff, the district administrative index shall equal the statewide average index for purposes of calculating administrative salary-based apportionment. The district administrative staff index shall be multiplied by the base salary of thirty-six thousand one hundred eighty-six dollars (\$36,186). The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(4), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

(5) To determine the apportionment for classified staff, multiply ~~twenty-one thousand six hundred sixty-five dollars (\$21,665)~~ twenty-two thousand three hundred fifteen dollars (\$22,315) by the district classified staff allowance determined as provided in section 33-1004(5), Idaho Code. The amount so determined is the district's apportionment for classified staff.

(6) The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections (1), (2), (3), (4) and (5) of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 5. DISCRETIONARY FUNDS. Notwithstanding any law to the contrary, for the period July 1, 2019, through June 30, 2020, it is estimated that the appropriation of state funds to the Public Schools Educational Support Program's Division of Operations will result in total discretionary funds of \$28,416 per support unit. The \$28,416 is further divided into two distributions: \$16,226 per support unit is to be used at the discretion of the school district or charter school and \$12,190 per support unit is to be used to offset the employer costs of health, vision, and dental insurance offered to its employees. If the distribution provided for health, vision, and dental insurance is in excess of the individual school district's or charter school's actual costs, the excess funds may then be used at the school district's or charter school's discretion. Further, the Superintendent of Public Instruction shall work with the Legislative Services Office and the Division of Financial Management to determine the information that the State Department of Education shall collect on school district and charter school health, vision, and dental insurance costs including, but not limited to, actual insurance premium costs and premium percentage increases.

SECTION 6. INFORMATION TECHNOLOGY STAFFING COSTS. Of the moneys appropriated in Section 3 of this act, \$8,000,000 shall be distributed for public school information technology staff costs. Such moneys shall be distributed pursuant to a formula, with a minimum distribution per school district and public charter school, determined by the Superintendent of Public Instruction.

SECTION 7. CLASSROOM TECHNOLOGY. Of the moneys appropriated in Section 3 of this act, \$36,500,000 shall be distributed for classroom technology, classroom technology infrastructure, wireless technology infrastructure, and instructional management systems that assist teachers and students in effective and efficient instruction or learning. Funding shall be distributed based on a formula prescribed by the Superintendent of Public

Instruction. Moneys so distributed shall be used to implement and operate an instructional management system of each district's choice that meets the individual learning needs and progress of all students. An instructional management system must include individual student learning plans, monitoring of interventions, integration with a district's Student Information System (SIS), and analysis of student and classroom levels of learning. Furthermore, the Superintendent of Public Instruction shall verify that districts are using funds to purchase an instructional management system that is compliant with these standards.

SECTION 8. DEFINITION. For the purposes of this appropriation, "distributed" means moneys that are transferred to school districts and public charter schools with no funds withheld for any other contract or administrative costs.

SECTION 9. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. For fiscal year 2020, the State Department of Education is hereby granted the authority to transfer appropriations among the Administrators, Teachers, Operations, Children's Programs, and Facilities Divisions of the Public Schools Educational Support Program, in any amount necessary, to comply with the public school funding provisions of appropriations and Idaho Code. Additionally, appropriations may be transferred from the Central Services Division to the other divisions of the Public Schools Educational Support Program.

Approved March 19, 2019

CHAPTER 122
(H.B. No. 222)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2020; PROVIDING REQUIREMENTS REGARDING THE IDAHO DIGITAL LEARNING ACADEMY; DIRECTING THE USE OF TOBACCO, CIGARETTE, AND LOTTERY INCOME TAX MONEYS; DIRECTING THE USE OF APPROPRIATION FOR REMEDIATION; DIRECTING THE USE OF APPROPRIATION FOR ENGLISH PROFICIENCY PROGRAMS; DIRECTING THE USE OF FUNDS FOR GIFTED AND TALENTED STUDENTS; DIRECTING A DISTRIBUTION TO PURCHASE DIGITAL CONTENT AND CURRICULUM; DIRECTING THE STATE DEPARTMENT OF EDUCATION TO COMPILE INFORMATION ON ADVANCED OPPORTUNITIES; PROVIDING A TRANSFER TO THE COMMISSION ON HISPANIC AFFAIRS; PROVIDING A TRANSFER TO IDAHO STATE POLICE; DEFINING "DISTRIBUTED"; PROVIDING REQUIREMENTS REGARDING LITERACY INTERVENTION PROGRAMS; PROVIDING REQUIREMENTS REGARDING USES OF FUNDS; AND DIRECTING THE USE OF FUNDS FOR K-3 LITERACY.

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

SECTION 1. The following amounts shall be expended for the Public Schools Educational Support Program's Division of Children's Programs for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$72,990,500
Cigarette, Tobacco, and Lottery Income Taxes	4,024,900
Opportunity Scholarship Program Account	3,156,500
Federal Grant Fund	<u>249,115,000</u>
TOTAL	\$329,286,900

SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$72,990,500
Opportunity Scholarship Program Account	\$3,156,500

SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Children's Programs the following amounts to be expended from the listed funds for the period July 1, 2019, through June 30, 2020:

FROM:

Public School Income Fund	\$80,171,900
Federal Grant Fund	<u>249,115,000</u>
TOTAL	\$329,286,900

SECTION 4. IDAHO DIGITAL LEARNING ACADEMY. The Idaho Digital Learning Academy (IDLA), created pursuant to Chapter 55, Title 33, Idaho Code, shall utilize state-appropriated funds for the period July 1, 2019, through June 30, 2020, to achieve the following:

- (1) Tuition charged by IDLA to Idaho school districts and charter schools shall not exceed \$75.00 per enrollment.
- (2) Provide remedial coursework for students failing to achieve proficiency in one (1) or more areas of Idaho's standards-based tests.
- (3) Pursuant to State Board of Education rule, IDAPA 08.02.03, provide advanced learning opportunities for students.
- (4) Pursuant to State Board of Education rule, IDAPA 08.02.03, work with institutions of higher education to provide dual credit coursework. The preceding list shall not be construed as excluding other instruction and training that may be provided by the Idaho Digital Learning Academy.

SECTION 5. TOBACCO, CIGARETTE, AND LOTTERY DISTRIBUTION. Notwithstanding the provisions of any law to the contrary, of the moneys appropriated in Section 3 of this act, up to \$4,024,900 from available tobacco, cigarette, and lottery income tax revenue funds accruing, appropriated, or distributed to the Public School Income Fund pursuant to Sections 63-2506, 63-2552A, and 63-3067, Idaho Code, for the period July 1, 2019, through June 30, 2020, shall be distributed to school districts and charter schools through a combination of a base amount of \$2,000 plus a prorated amount based on the prior year's average daily attendance. Such funds shall be used to develop and implement school safety improvements and/or to facilitate and provide substance abuse prevention programs in the public school system.

SECTION 6. REMEDIAL COURSEWORK. Of the moneys appropriated in Section 3 of this act, \$4,715,000 shall be distributed for remedial coursework for students failing to achieve proficiency on Idaho's standards-based achievement tests in dollar amounts determined by the Superintendent of Public Instruction. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the Senate and House Education committees by no later than February 1, 2020, on the uses of funds and effectiveness of the programs and efforts.

SECTION 7. ENGLISH PROFICIENCY. Pursuant to Section 33-1617, Idaho Code, of the moneys appropriated in Section 3 of this act, \$4,820,000 shall be distributed for support of students in English language learner programs, as follows: (1) The Superintendent of Public Instruction shall distribute \$4,370,000 to school districts and charter schools pro rata, based on the population of English language learners under criteria established by the department. (2) The Superintendent of Public Instruction shall distribute \$450,000 for a competitive grant program to assist school districts and charter schools in which the population of English language learners are not reaching statewide accountability interim targets or long-term goals, as defined by federal law. This amount shall be distributed annually in three-year grant cycles, contingent on appropriation and the ability of grantees to meet program objectives. (3) The Superintendent of Public Instruction shall develop the program elements and objectives governing the use of these funds and include a program evaluation component. The purpose of these funds is to improve student English language skills to allow for better access to the educational opportunities offered in public schools. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the Senate and House Education committees by no later than February 1, 2020, on the program design, uses of funds and program effectiveness.

SECTION 8. GIFTED AND TALENTED. Of the funds appropriated in Section 3 of this act, \$1,000,000 shall be distributed by the Superintendent of Public Instruction for professional training and screening for gifted and talented students and instructors. Funding will be distributed based on a formula prescribed by the Superintendent of Public Instruction that includes a base amount and an amount based on the number of identified gifted and talented students.

SECTION 9. DIGITAL CONTENT. Of the funds appropriated in Section 3 of this act, \$1,600,000 shall be distributed by the Superintendent of Public Instruction to school districts and charter schools to purchase digital content and curricula of their choice. Funding will be distributed based on a formula prescribed by the Superintendent of Public Instruction that includes a base amount and an amount based on the number of midterm support units.

SECTION 10. ADVANCED OPPORTUNITIES COURSES AND PROGRAM EVALUATION. The Superintendent of Public Instruction shall compile information concerning the numbers of students enrolling in advanced opportunities courses according to the provisions of Chapter 46, Title 33, Idaho Code, whether coursework is successfully completed, and expenditures for fiscal year 2020. As nearly as possible, the report shall contain information about enrollment of this student population in post-high school education. A report containing such information shall be posted on the website of the State Department of Education no later than December 31, 2019. Additionally, the Advanced Opportunities Program(s) shall have an independent, external evaluation that includes an analysis of key performance indicators of student outcomes. The results of the evaluation shall be reported to the Joint Finance-Appropriations

tions Committee and the Senate and House Education committees no later than February 1, 2020, on the program design, uses of funds, program effectiveness, and any other relevant matters.

SECTION 11. PUBLIC SCHOOL INCOME FUND TRANSFER TO COMMISSION ON HISPANIC AFFAIRS. There is hereby appropriated and the State Controller shall transfer in accordance with Section 63-2552A(3), Idaho Code, on July 1, 2019, or as soon thereafter as practicable, \$80,000 from the Public School Income Fund to the Commission on Hispanic Affairs Miscellaneous Revenue Fund to be used for substance abuse prevention efforts in collaboration with the State Department of Education.

SECTION 12. PUBLIC SCHOOL INCOME FUND TRANSFER TO IDAHO STATE POLICE. There is hereby appropriated and the State Controller shall transfer in accordance with Section 63-2552A(3), Idaho Code, on July 1, 2019, or as soon thereafter as practicable, \$200,000 from the Public School Income Fund to the Idaho State Police Miscellaneous Revenue Fund for the purpose of increasing toxicology lab capacity in Forensic Services.

SECTION 13. DEFINITION. For the purposes of this appropriation, "distributed" means moneys that are transferred to school districts, public charter schools, and the Idaho Digital Learning Academy, with no funds withheld for any other contract or administrative costs.

SECTION 14. LITERACY INTERVENTION PROGRAMS. The Literacy Intervention Program(s) shall continue to have an independent, external evaluation that includes an analysis of key performance indicators of student achievement. The results of the updated evaluation shall be reported to the Joint Finance-Appropriations Committee and the Senate and House Education committees no later than February 1, 2020, on the program design, uses of funds, program effectiveness, and any other relevant matters.

SECTION 15. USES OF FUNDS. Notwithstanding the provisions of Section 33-4303, Idaho Code, and any other provision of law to the contrary, the moneys appropriated and transferred in Section 2 of this act from the Opportunity Scholarship Program Account shall be used for K-3 literacy.

SECTION 16. K-3 LITERACY. Of the amount appropriated in Section 3 of this act for K-3 literacy, \$26,146,800 shall be used for reading instruction and intervention, reading assessment, and literacy intervention or as otherwise authorized by Title 33, Idaho Code.

Approved March 19, 2019

CHAPTER 123
(H.B. No. 223)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF FACILITIES FOR FISCAL YEAR 2020; APPROPRIATING MONIES TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF FACILITIES FOR FISCAL YEAR 2020; PROVIDING THE NECESSARY FUNDS FOR THE BOND LEVY EQUALIZATION PROGRAM; SPECIFYING THE AMOUNT OF REVENUE DISTRIBUTED TO THE GENERAL FUND FOR FISCAL YEAR 2020; AND MAKING A TRANSFER TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2020.

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

SECTION 1. There is hereby appropriated to the Public Schools Educational Support Program's Division of Facilities the following amounts to be expended from the listed funds for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$20,883,000
Bond Levy Equalization Fund	15,448,900
School District Building Account	<u>22,842,500</u>
TOTAL	\$59,174,400

SECTION 2. TRANSFER. Of the moneys appropriated to the Public Schools Educational Support Program's Division of Facilities, the amount necessary to fund the provisions of Section 33-906, Idaho Code, is hereby transferred and appropriated to the Bond Levy Equalization Fund. If the funding appropriated in Section 1 of this act is insufficient to meet the requirements of Section 33-906, Idaho Code, the difference shall be withdrawn and paid from the Public Education Stabilization Fund, notwithstanding any other provision of law to the contrary.

SECTION 3. DISTRIBUTION TO THE GENERAL FUND. Notwithstanding the provisions of Section 63-2520(b)(4), Idaho Code, the amount of revenue distributed to the General Fund shall be \$7,939,000 for the period July 1, 2019, through June 30, 2020.

SECTION 4. TRANSFER FOR PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM. Of the moneys appropriated in Section 1 of this act, there is hereby appropriated and the State Controller shall transfer \$12,944,000 from the General Fund to the Public School Income Fund to be expended for the Public Schools Educational Support Program's Division of Facilities for the period July 1, 2019, through June 30, 2020.

Approved March 19, 2019

CHAPTER 124
(H.B. No. 224)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CENTRAL SERVICES FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CENTRAL SERVICES FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING FUNDS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF CENTRAL SERVICES FOR FISCAL YEAR 2020; DIRECTING THE USE OF FUNDS FOR LITERACY PROGRAMS, INTERVENTION SERVICES, MATH INITIATIVE PROGRAMS, AND LIMITED-ENGLISH PROFICIENCY PROGRAMS; DIRECTING THE USE OF FUNDS FOR STUDENT ASSESSMENTS; DIRECTING THE USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT; PROVIDING REQUIREMENTS FOR DIGITAL CONTENT AND CURRICULUM; PROVIDING GUIDANCE ON YEAR-END RECONCILIATION; PROVIDING REQUIREMENTS FOR TECHNOLOGY CONTENT AND CURRICULUM; AND DEFINING "DISTRIBUTED" AND "EXPENDED."

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

SECTION 1. The following amount shall be expended for the Public Schools Educational Support Program's Division of Central Services for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$12,667,600
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SECTION 2. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$12,667,600
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SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Central Services the following amount to be expended for operating expenditures from the listed fund for the period July 1, 2019, through June 30, 2020:

	FOR OPERATING EXPENDITURES	TOTAL
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FROM:

Public School Income Fund	\$12,667,600	\$12,667,600
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SECTION 4. PROGRAM SUPPORT. Of the moneys appropriated in Section 3 of this act, up to \$2,609,100 shall be expended for the support of literacy programs, intervention services for non-Title I schools that fail to achieve proficiency on Idaho's standards-based achievement tests, math initiative programs and regional math labs, and evaluation of the programs for students with non-English or limited-English proficiency. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee, the Senate Education Committee, and the House Education Committee by no

later than February 1, 2020, on the uses of funds and effectiveness of the programs and efforts.

SECTION 5. STUDENT ASSESSMENTS. Of the moneys appropriated in Section 3 of this act, the Superintendent of Public Instruction may expend up to \$2,258,500 for the development or administration of student assessments, including a college entrance exam for grade 11 students, an exam for grade 10 students that provides preparation for the college entrance exam, and end-of-course exams for high school science subjects.

SECTION 6. PROFESSIONAL DEVELOPMENT. Of the moneys appropriated in Section 3 of this act, the Superintendent of Public Instruction may expend up to \$2,700,000 for professional development, teacher training, and to track usage and effectiveness of professional development efforts at the state and local levels.

SECTION 7. CONTENT AND CURRICULUM -- DIGITAL CONTENT. Of the moneys appropriated in Section 3 of this act, up to \$1,200,000 may be expended for the purchase of content and curriculum for adaptive math instruction, and up to \$2,250,000 may be expended for research-based programs to assist with the instruction of students with non-English or limited-English proficiency.

SECTION 8. YEAR-END RECONCILIATION. If the funds appropriated and transferred to the Public School Income Fund and the funds appropriated from the General Fund in Section 1 of this act exceed the actual expenditures for the specified purposes, the difference shall be included in the year-end reconciliation used to calculate funding available to meet the requirements of Section 33-1018, Idaho Code, notwithstanding any other provisions of law to the contrary. If the funding amounts specified in Section 5 of this act are insufficient to meet the actual expenditures, the difference shall be included in the year-end reconciliation used to calculate funding available to meet the requirements of Section 33-1018, Idaho Code, notwithstanding any other provisions of law to the contrary.

SECTION 9. CONTENT AND CURRICULUM -- TECHNOLOGY. Of the funds appropriated in Section 3 of this act, an amount not to exceed \$1,300,000 may be expended by the Superintendent of Public Instruction to contract for services that provide technology education opportunities and/or information technology certifications to students, including faculty, that prepare students for college, career, or the workplace. Funding shall be awarded for projects that include three (3) or more of the following components:

- (1) Certification of skills and competencies;
- (2) Professional development for teachers;
- (3) Integration with curriculum standards;
- (4) Online access to research-based content and curriculum; or
- (5) Instructional software for classroom use.

The Superintendent of Public Instruction shall provide a report to the Joint Finance-Appropriations Committee, the Senate Education Committee, and the House Education Committee by February 1, 2020, regarding the number and type of certificates earned by students and faculty.

SECTION 10. DEFINITIONS. For the purposes of this act, "distributed" means moneys that are transferred to school districts and public charter schools with no funds withheld for any other contract or administrative costs. "Expended" means moneys that pay for the cost of contracts that provide services to school districts, public charter schools or students, or that pay for the State Department of Education's cost of administering the programs for which the moneys are allocated.

CHAPTER 125
(H.B. No. 225)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2020; PROVIDING FOR EXPENDITURES FOR THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2020; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; AND APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM'S DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2020.

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

SECTION 1. The following amounts shall be expended for the Public Schools Educational Support Program's Division of Educational Services for the Deaf and the Blind for the period July 1, 2019, through June 30, 2020:

FROM:

General Fund	\$10,987,000
Miscellaneous Revenue Fund	109,200
School for the Deaf and the Blind Endowment Fund	220,300
Federal Grant Fund	<u>223,500</u>
TOTAL	\$11,540,000

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$10,987,000 from the General Fund to the Public School Income Fund for the period July 1, 2019, through June 30, 2020.

SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program's Division of Educational Services for the Deaf and the Blind the following amounts to be expended from the listed funds for the period July 1, 2019, through June 30, 2020:

FROM:

Public School Income Fund	\$10,987,000
Miscellaneous Revenue Fund	109,200
School for the Deaf and the Blind Endowment Fund	220,300
Federal Grant Fund	<u>223,500</u>
TOTAL	\$11,540,000

Approved March 19, 2019

CHAPTER 126
(H.B. No. 227)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Independent Living Council the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$120,200	\$108,600		\$228,800
State Independent Living Council (Ded)				
Fund	273,000	93,800		366,800
Federal Grant				
Fund	<u>48,900</u>	<u>18,500</u>	<u>\$50,300</u>	<u>117,700</u>
TOTAL	\$442,100	\$220,900	\$50,300	\$713,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than four (4.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2019

CHAPTER 127
(H.B. No. 230)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REQUIREMENTS FOR A REPORT ON ONLINE SERVICES FILTERS; REPURPOSING AN APPROPRIATION FOR SPECIFIC EXPENSES FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Idaho Commission for Libraries the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,060,000	\$1,642,100		\$452,600	\$4,154,700
Miscellaneous Revenue					
Fund		55,000	\$5,000	10,000	70,000
Federal Grant					
Fund	<u>652,600</u>	<u>916,500</u>	<u>25,000</u>	<u>60,000</u>	<u>1,654,100</u>
TOTAL	\$2,712,600	\$2,613,600	\$30,000	\$522,600	\$5,878,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than thirty-seven and five-tenths (37.50) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REPORT ON ONLINE SERVICES FILTERS. The Idaho Commission for Libraries shall deliver to the Legislative Services Office a report that describes all services within the online services portal, the target audience of those services, an outline of all filters applied to those services, and a certification that the vendor is meeting the obligations outlined in the applicable service contract or license agreement. The report shall be delivered with the commission's original budget request or by September 3, 2019.

SECTION 4. REPURPOSING OF APPROPRIATION. Notwithstanding the provisions of Section 3, Chapter 149, Laws of 2018, and any other provision of law to the contrary, of the \$200,000 onetime appropriation from the General Fund to the Idaho Commission for Libraries for the Talking Book Service, \$12,600 may be used for onetime trustee and benefit payments for broadband reimbursement through the Education Opportunity Resource Act.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after passage and approval.

Approved March 19, 2019

CHAPTER 128
(H.B. No. 231)

AN ACT

RELATING TO THE APPROPRIATION TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Lieutenant Governor the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2019, through June 30, 2020:

FOR:

Personnel Costs	\$168,200
Operating Expenditures	<u>15,700</u>
TOTAL	\$183,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lieutenant Governor is authorized no more than three (3.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. The Lieutenant Governor is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated to it for the period July 1, 2019, through June 30, 2020. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 19, 2019

CHAPTER 129
(H.B. No. 233)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND; PROVIDING REAPPROPRIATION AUTHORITY FOR THE LAND INFORMATION MANAGEMENT SYSTEM; AND PROVIDING REAPPROPRIATION AUTHORITY FOR THE PRIVATE FIRE SYSTEM.

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

SECTION 1. There is hereby appropriated to the Department of Lands the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$423,100	\$286,200	\$88,800		\$798,100
Department of Lands					
Fund	696,300	397,200	194,200		1,287,700
Indirect Cost Recovery					
Fund	70,500	128,200			198,700
Endowment Earnings Administrative					
Fund	<u>2,950,600</u>	<u>1,569,700</u>	<u>442,200</u>		<u>4,962,500</u>
TOTAL	\$4,140,500	\$2,381,300	\$725,200		\$7,247,000
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General					
Fund	\$1,321,800	\$94,800	\$41,500	\$20,000	\$1,478,100
Department of Lands					
Fund	1,690,300	2,325,700		1,500,000	5,516,000
Indirect Cost Recovery					
Fund	115,600	320,000			435,600
Endowment Earnings Administrative					
Fund	11,047,300	6,654,800	691,100		18,393,200
Community Forestry					
Fund		20,000		20,000	40,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>1,170,700</u>	<u>1,334,500</u>	<u>0</u>	<u>2,915,400</u>	<u>5,420,600</u>
TOTAL	\$15,345,700	\$10,749,800	\$732,600	\$4,455,400	\$31,283,500
III. LANDS AND WATERWAYS:					
FROM:					
General					
Fund	\$407,800	\$32,600			\$440,400
Department of Lands					
Fund	446,200	1,496,500			1,942,700
Navigable Waterways					
Fund	647,300	74,500			721,800
Endowment Earnings Administrative					
Fund	<u>2,562,100</u>	<u>4,106,800</u>	<u>\$13,500</u>		<u>6,682,400</u>
TOTAL	\$4,063,400	\$5,710,400	\$13,500		\$9,787,300
IV. FOREST AND RANGE FIRE PROTECTION:					
FROM:					
General					
Fund	\$1,946,600	\$287,900		\$902,400	\$3,136,900
Department of Lands					
Fund	3,978,200	469,400	\$807,600	873,000	6,128,200
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
Federal Grant					
Fund	<u>766,700</u>	<u>305,000</u>	<u>0</u>	<u>450,000</u>	<u>1,521,700</u>
TOTAL	\$6,821,000	\$1,084,400	\$807,600	\$2,225,400	\$10,938,400
V. SCALING PRACTICES:					
FROM:					
Department of Lands					
Fund	\$215,700	\$56,800	\$41,500		\$314,000
VI. OIL AND GAS CONSERVATION:					
FROM:					
General					
Fund	\$399,500	\$102,200			\$501,700
Oil and Gas Conservation					
Fund	<u>98,300</u>	<u>85,000</u>			<u>183,300</u>
TOTAL	\$497,800	\$187,200			\$685,000
GRAND TOTAL	\$31,084,100	\$20,169,900	\$2,320,400	\$6,680,800	\$60,255,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than three hundred twenty-three and eighty-two hundredths (323.82) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. The Department of Lands is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated for the Forest and Range Fire Protection Program for the period July 1, 2019, through June 30, 2020. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. CASH TRANSFER FOR FIRE SUPPRESSION COSTS. There is hereby appropriated to the Department of Lands and the State Controller shall transfer \$20,000,000 from the General Fund to the Fire Suppression Deficiency Fund as soon as practicable for the period July 1, 2019, through June 30, 2020. Such moneys shall be used to reimburse costs incurred by the Range and Forest Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.

SECTION 5. REAPPROPRIATION AUTHORITY FOR THE LAND INFORMATION MANAGEMENT SYSTEM. There is hereby reappropriated to the Department of Lands any unexpended and unencumbered balances appropriated to the Department of Lands from the Department of Lands Fund for the Land Information Management System for fiscal year 2019, in an amount not to exceed \$250,000, to be used for nonrecurring expenditures related to the Land Information Management System for the period July 1, 2019, through June 30, 2020.

SECTION 6. REAPPROPRIATION AUTHORITY FOR THE PRIVATE FIRE SYSTEM. There is hereby reappropriated to the Department of Lands any unexpended and unencumbered balances appropriated to the Department of Lands from the Department of Lands Fund for the Private Fire and Hazard Management System for fiscal year 2019, in an amount not to exceed \$250,000, to be used for nonrecurring expenditures related to the Private Fire and Hazard Management System for the period July 1, 2019, through June 30, 2020.

Approved March 19, 2019

CHAPTER 130
(H.B. No. 114)

AN ACT

RELATING TO CHILDREN; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1506B, IDAHO CODE, TO PROVIDE THAT FEMALE GENITAL MUTILATION OF A CHILD SHALL BE A FELONY, TO PROVIDE CERTAIN EXCEPTIONS, TO PROVIDE THAT CERTAIN FACTORS SHALL NOT BE A DEFENSE, TO PROVIDE A PENALTY, AND TO DEFINE A TERM; AND AMENDING SECTION 19-402, IDAHO CODE, TO REVISE A PROVISION REGARDING COMMENCEMENT OF PROSECUTIONS FOR CERTAIN FELONIES.

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

SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1506B, Idaho Code, and to read as follows:

18-1506B. FEMALE GENITAL MUTILATION -- EXCLUSIONS -- PENALTIES -- DEFINITION. (1) Except as provided in subsection (2) of this section, whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora, labia minora, or clitoris of a child shall be guilty of a felony.

(2) A surgical operation shall not be a violation of this section if the operation is:

(a) Necessary to the health of the person on whom it is performed and is performed by a person licensed in the place of its performance as a medical practitioner; or

(b) Performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

(3) In applying subsection (2) (a) of this section, no account shall be taken of the effect on the person on whom the operation is to be performed or any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.

(4) Any person convicted of a violation of this section shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

(5) For the purposes of this section, "child" means any person under eighteen (18) years of age.

SECTION 2. That Section 19-402, Idaho Code, be, and the same is hereby amended to read as follows:

19-402. COMMENCEMENT OF PROSECUTIONS FOR FELONIES. A prosecution for any felony other than those specified in section 19-401, Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within five (5) years after its commission, provided however, a prosecution under sections 18-1506A and 18-1506B, Idaho Code, must be commenced within three (3) years after the date of initial disclosure by the victim to law enforcement.

Approved March 20, 2019

CHAPTER 131
(H.B. No. 117)

AN ACT

RELATING TO CRIME VICTIMS; AMENDING SECTION 19-5307, IDAHO CODE, TO PROVIDE THAT A FINE MAY BE IMPOSED FOR CERTAIN FELONIES, TO PROVIDE THAT A FINE MAY BE IMPOSED FOR THE ATTEMPT OF CERTAIN FELONIES, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-5307, Idaho Code, be, and the same is hereby amended to read as follows:

19-5307. FINES IN CASES OF CRIMES OF VIOLENCE. (1) Irrespective of any penalties set forth under state law, and in addition thereto, the court, at the time of sentencing or such later date as deemed necessary by the court, may impose a fine not to exceed five thousand dollars (\$5,000) against any defendant found guilty of any felony listed in subsections (2) and (3) of this section.

The fine shall operate as a civil judgment against the defendant, and shall be entered on behalf of the victim named in the indictment or information, or the family of the victim in cases of homicide or crimes against children, and shall not be subject to any distribution otherwise required in section 19-4705, Idaho Code. The clerk of the district court may collect the fine in the same manner as other fines imposed in criminal cases are collected and shall remit any money collected in payment of the fine to the victim named in the indictment or information or to the family of the victim in a case of homicide or crimes against minor children, provided that none of the provisions of this section shall be construed as modifying the provisions of chapter 6, title 11, Idaho Code, chapter 10, title 55, Idaho Code, or section 72-802, Idaho Code. A fine created under this section shall be a separate written order in addition to any other sentence the court may impose.

The fine contemplated in this section shall be ordered solely as a punitive measure against the defendant, and shall not be based upon any requirement of showing of need by the victim. The fine shall not be used as a substitute for an order of restitution as contemplated in section 19-5304, Idaho Code, nor shall such an order of restitution or order of compensation entered in accordance with section 72-1018, Idaho Code, be offset by the entry of such fine.

A defendant may appeal a fine created under this section in the same manner as any other aspect of a sentence imposed by the court. The imposition of a fine created under this section shall not preclude the victim from seeking any other legal remedy; provided that in any civil action brought by or on behalf of the victim, the defendant shall be entitled to offset the amount of any fine imposed pursuant to this section against any award of punitive damages.

(2) The felonies for which a fine created under this section may be imposed are those described in:

Section 18-805, Idaho Code (Aggravated arson);

Section 18-905, Idaho Code (Aggravated assault);

Section 18-907, Idaho Code (Aggravated battery);

Section 18-909, Idaho Code (Assault with intent to commit a serious felony);

Section 18-911, Idaho Code (Battery with intent to commit a serious felony);

Section 18-913, Idaho Code (Felonious administration of drugs);

Section 18-918, Idaho Code (Felony domestic violence);

Section 18-923, Idaho Code (Attempted strangulation);
Section 18-1501, Idaho Code (Felony injury to children);
Section 18-1506, Idaho Code (Sexual abuse of a child under the age of sixteen);
Section 18-1506A, Idaho Code (Ritualized abuse of a child);
Section 18-1507, Idaho Code (Sexual exploitation of a child);
Section 18-1508, Idaho Code (Lewd conduct with a child under the age of sixteen);
Section 18-1508A, Idaho Code (Sexual battery of a minor child sixteen or seventeen years of age);
Section 18-4001, Idaho Code (Murder);
Section 18-4006, Idaho Code (Felony manslaughter);
Section 18-4014, Idaho Code (Administering poison with intent to kill);
Section 18-4015, Idaho Code (Assault with intent to murder);
Section 18-4502, Idaho Code (First degree kidnapping);
Section 18-5001, Idaho Code (Mayhem);
Section 18-5501, Idaho Code (Poisoning food, medicine or wells);
Section 18-6101, Idaho Code (Rape);
Section 18-6501, Idaho Code (Robbery).

(3) Notwithstanding the provisions of section 18-306(4) and (5), Idaho Code, the fine created under this section may also be imposed up to five thousand dollars (\$5,000) for attempts of the felonies described in:

Section 18-4001, Idaho Code (Murder);
Section 18-6101, Idaho Code (Rape).

Approved March 20, 2019

CHAPTER 132
(H.B. No. 153)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004B, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CAREER LADDER; AND AMENDING SECTION 33-1004B, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 169, LAWS OF 2018, TO REVISE THE RESIDENCY COMPENSATION RUNG ON THE CAREER LADDER.

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

SECTION 1. That Section 33-1004B, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004B. CAREER LADDER. (1) Effective July 1, 2015, all existing instructional staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung that corresponds with the next higher allocation amount than is currently received by the district, based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015. For each year between July 1, 2015, and June 30, 2019, those instructional staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the instructional staff would have moved based on the experience and education index as applied in fiscal year 2015, for such instructional staff the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career

ladder will be based on the previous year's performance for the applicable number of years.

(2) Effective July 1, 2016, all existing pupil service staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung or the next higher allocation amount than is currently received by the district, or based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2016, whichever is higher. For individuals holding a pupil personnel services certificate with an occupational therapist or physical therapist endorsement, all experience shall be counted toward the experience calculation from the first year in which the individual held an applicable license from the bureau of occupational licenses and performed occupational therapy or physical therapy services while employed by a school district, a charter school or an accredited private or parochial school. For each year between July 1, 2016, and June 30, 2019, those pupil service staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the pupil service staff would have moved based on the experience and education index as applied in fiscal year 2016. For such pupil service staff, the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career ladder will be based on the previous year's performance for the applicable number of years.

(3) Instructional staff and pupil service staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter, for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(4) Instructional staff new to teaching in Idaho and pupil service staff new to working in an Idaho public school district or charter school who hold a certificate from a state other than Idaho and who are approved to teach in Idaho will be placed into the cohort of instructional staff on the career ladder table equivalent to their experience and education pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015 for instructional staff and 2016 for pupil service staff. For individuals holding an Idaho pupil personnel services certificate with an occupational therapist or physical therapist endorsement, all experience shall be counted toward the experience calculation from the first year in which the individual held an applicable license from the bureau of occupational licenses and performed occupational therapy or physical therapy services while employed by a school district, a charter school or an accredited private or parochial school.

(5) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for career technical education instructional staff holding an occupational specialist certificate in the area for which they are teaching in the amount of three thousand dollars (\$3,000).

(6) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff and pupil service staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only credits and degrees earned based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits

earned through an internship or other work experience approved by the state board of education, shall be credited toward the education allocation. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree-prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) Effective July 1, 2016, through June 30, 2017, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, eight hundred dollars (\$800) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, one thousand four hundred dollars (\$1,400) per fiscal year.

(b) Effective July 1, 2017, through June 30, 2018, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand two hundred dollars (\$1,200) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand one hundred dollars (\$2,100) per fiscal year.

(c) Effective July 1, 2018, through June 30, 2019, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand six hundred dollars (\$1,600) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand eight hundred dollars (\$2,800) per fiscal year.

(d) Effective July 1, 2019, through June 30, 2020, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(7) Effective July 1, 2015, through June 30, 2016, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/ Professional	\$32,700	\$33,200	\$33,822							
Professional	\$35,498	\$36,885	\$38,311	\$39,775	\$41,282	\$42,089	\$43,668	\$45,305	\$47,004	\$47,603

(8) Effective July 1, 2016, through June 30, 2017, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency/										
Professional	\$33,400	\$34,250	\$35,117							
Professional	\$37,249	\$38,758	\$39,546	\$41,113	\$41,961	\$43,591	\$44,503	\$46,201	\$47,183	\$48,202

(9) Effective July 1, 2017, through June 30, 2018, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$34,600	\$35,500	\$36,411							
Professional	\$38,999	\$40,630	\$41,155	\$42,825	\$43,391	\$45,102	\$45,711	\$47,467	\$48,122	\$48,802

(10) Effective July 1, 2018, through June 30, 2019, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder.

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the compensation rung performance criteria for the previous three (3) years. Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for the previous three (3) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(11) Effective July 1, 2018, through June 30, 2019, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$35,800	\$36,750	\$37,706							
Professional	\$40,750	\$42,503	\$42,765	\$44,538	\$44,820	\$46,614	\$46,918	\$48,734	\$49,061	\$49,401

(12) Effective July 1, 2019, through June 30, 2020, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder as follows:

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move ~~one (1) cell on the applicable rung~~ with their cohort through the ladder, unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years, according to the following schedule, which results in pay increases for instructional staff and pupil service staff at all levels:

(i) Individuals in the professional levels 1 and 2 during the previous fiscal year will move to the professional level 2 for July 1, 2019, through June 30, 2020;

(ii) Individuals in the professional levels 3 and 4 during the previous fiscal year will move to the new professional level 3 for July 1, 2019, through June 30, 2020;

(iii) Individuals in the professional levels 5 and 6 during the previous fiscal year will move to the new professional level 4 for July 1, 2019, through June 30, 2020; and

(iv) Individuals in the professional levels 7, 8, 9, and 10 during the previous fiscal year will move to the new professional level 5 for July 1, 2019, through June 30, 2020.

Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(13) Effective July 1, 2019, through June 30, 2020, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$37,000	\$38,500	\$38,000	\$39,000	\$39,000	\$39,500				
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000					

(14) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation, including each evaluation component as outlined in administrative rule and the rating given for each component. The state board of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff and pupil service staff employee evaluations shall be independently reviewed. The ratio of instructional staff evaluations to pupil service staff evaluations shall be equal to the ratio of the statewide instructional staff salary allowance to pupil service staff salary allowance. The state board of education with input from the Idaho-approved teacher preparation programs and the state department of education shall identify individuals and a process to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state board of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

(15) School districts shall submit annually to the state the data necessary to determine whether an instructional staff or pupil service staff member has met the performance criteria for the applicable compensation rung and implementation year. The department of education shall calculate annually whether instructional staff and pupil service staff have met the compensation rung performance criteria based on the data submitted during the previous years that are applicable to the performance criteria for that year. Individually identifiable performance evaluation ratings submitted to the state remain part of the employee's personnel record and are exempt from public disclosure pursuant to section 74-106, Idaho Code.

SECTION 2. That Section 33-1004B, Idaho Code, as amended by Section 5, Chapter 169, Laws of 2018, be, and the same is hereby amended to read as follows:

33-1004B. CAREER LADDER. School districts shall receive an allocation for instructional staff and pupil service staff based on their staffs' position on the career ladder as follows:

(1) Instructional staff and pupil service staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(2) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(3) Instructional staff and pupil service staff on the professional compensation rung with four (4) years of experience shall move one (1) cell on the professional compensation rung unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Instructional staff and pupil service staff on the professional compensation rung who meet the performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall move one (1) cell. Allocations for instructional staff and pupil service staff who do not meet the professional compensation rung performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall remain at the previous fiscal year allocation level. This also applies to the educational allocation.

(4) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for career technical education instructional staff holding an occupational specialist certificate in the area for which they are teaching in the amount of three thousand dollars (\$3,000).

(5) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff and pupil service staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only transcribed credits and degrees on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or work experience approved by the state board of education, shall be allowed. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Additional education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree-prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) For instructional staff and pupil service staff holding a professional endorsement, a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(b) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(c) Effective July 1, 2020, the allocation shall be:

Base Allocation	1	2	3	4	5
Residency	\$37,000 \$40,000	\$38,000 \$40,500	\$39,000 \$41,000		
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000

(6) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation, including each evaluation component as outlined in administrative rule and the rating given for each component. The state board of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff and pupil service staff employee evaluations shall be independently reviewed. The ratio of instructional staff evaluations to pupil service staff evaluations shall be equal to the ratio of the statewide instructional staff salary allowance to pupil service staff salary allowance. The state board of education with input from the Idaho-approved teacher preparation programs and the state department of education shall identify individuals and a process to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state board of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

(7) School districts shall submit annually to the state the data necessary to determine if an instructional staff or pupil service staff member has met the performance criteria for movement on the applicable compensation rung. The department of education shall calculate whether or not instructional staff and pupil service staff have met the compensation rung performance criteria based on the data submitted during the previous five (5) years. Individually identifiable performance evaluation ratings submitted to the state remain part of the employee's personnel record and are exempt from public disclosure pursuant to section 74-106, Idaho Code.

Approved March 20, 2019

CHAPTER 133
(H.B. No. 181)

AN ACT

RELATING TO CHILDREN; AMENDING SECTION 16-1602, IDAHO CODE, TO REVISE DEFINITIONS.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(a) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, ~~subdural hematoma~~ head injury, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given con-

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

(b) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, human trafficking as defined in section 18-8602, Idaho Code, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

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

(3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

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

(a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interest of the child requires protective supervision or vesting legal custody of the child in an authorized agency.

(5) "Age of developmentally appropriate" means:

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

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

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

(a) Circumstances in which the parent has engaged in any of the following:

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

(ii) Sexual abuse against a child of the parent. Sexual abuse, for the purposes of this section, includes any conduct described in section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6608 or 18-8602, Idaho Code.

(iii) Torture of a child; any conduct ~~described in the code sections~~ listed in section 18-8303(1), Idaho Code; battery or an injury to a child that results in serious or great bodily injury to a child; voluntary manslaughter of a child, or aiding or abetting such voluntary manslaughter, soliciting such voluntary manslaughter or attempting or conspiring to commit such voluntary manslaughter;

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

(c) The parental rights of the parent to another child have been terminated involuntarily.

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

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

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

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

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

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

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

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

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

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

(17) "Department" means the department of health and welfare and its authorized representatives.

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

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

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

(21) "Foster parent" means a person or persons licensed to provide foster care.

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

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

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

(25) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

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

(27) "Idaho network of children's advocacy centers" means an organization that provides education and technical assistance to child advocacy centers and to interagency multidisciplinary teams developed pursuant to section 16-1617, Idaho Code.

(28) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

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

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

(b) To supply the child with food, clothing, shelter and incidental necessities.

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

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

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

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

(31) "Neglected" means a child:

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

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

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

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

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

(33) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(34) "Protective order" means an order issued by the court in a child protection case, prior to the adjudicatory hearing, to enable the child to remain in the home pursuant to section 16-1615(8), Idaho Code, or following an adjudicatory hearing to preserve the unity of the family and to ensure the best interests of the child, pursuant to section 16-1619(10), Idaho Code. Such an order shall be in the same form and have the same effect as a domestic violence protection order issued pursuant to chapter 63, title 39, Idaho Code. A protective order shall be for a period not to exceed three (3) months unless otherwise stated in the order.

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

(36) "Psychotropic medication" means a drug prescribed to affect psychological functioning, perception, behavior or mood. Psychotropic medications include, but are not limited to, antidepressants, mood stabilizers, antipsychotics, antianxiety medications, sedatives and stimulants.

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

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

(39) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(40) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

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

Approved March 20, 2019

CHAPTER 134
(H.B. No. 212)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$3,023,500	\$849,000		\$60,000	\$3,932,500
Miscellaneous Revenue					
Fund	92,700	191,400			284,100
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$478,600</u>	<u>0</u>	<u>478,600</u>
TOTAL	\$3,116,200	\$1,040,400	\$478,600	\$60,000	\$4,695,200
II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:					
FROM:					
General					
Fund	\$1,274,800	\$225,200		\$4,393,900	\$5,893,900
Juvenile Corrections					
Fund		110,000			110,000
Juvenile Corrections - Cigarette/Tobacco Tax					
Fund				4,375,000	4,375,000
Miscellaneous Revenue					
Fund				327,000	327,000
Federal Grant					
Fund	<u>0</u>	<u>199,600</u>		<u>521,000</u>	<u>720,600</u>
TOTAL	\$1,274,800	\$534,800		\$9,616,900	\$11,426,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General					
Fund	\$23,646,100	\$2,023,800	\$26,000	\$4,239,800	\$29,935,700
Miscellaneous Revenue					
Fund	22,200	238,600		460,000	720,800
State Juvenile Corrections Center Endowment Income					
Fund		1,073,800	215,600		1,289,400
Federal Grant					
Fund	<u>178,700</u>	<u>768,400</u>	<u>0</u>	<u>1,195,400</u>	<u>2,142,500</u>
TOTAL	\$23,847,000	\$4,104,600	\$241,600	\$5,895,200	\$34,088,400

IV. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:

FROM:

General

Fund	\$186,300	\$195,300		\$2,680,800	\$3,062,400
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GRAND TOTAL	\$28,424,300	\$5,875,100	\$720,200	\$18,252,900	\$53,272,500
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than four hundred fourteen (414.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 2019

CHAPTER 135
(H.B. No. 232)

AN ACT

RELATING TO THE APPROPRIATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$6,653,100	\$5,312,900		\$3,524,600	\$15,490,600
Indirect Cost Recovery					
Fund	795,900	1,463,800	\$48,900		2,308,600
Driver's Training					
Fund	190,200	151,200	1,200	2,113,300	2,455,900
Broadband Infrastructure					
Fund				2,700,000	2,700,000
Public Instruction					
Fund	838,700	978,800	15,400	11,400	1,844,300
Miscellaneous Revenue					
Fund	313,100	184,900	3,500		501,500
Public Schools Other Income					
Fund	97,800	362,400	1,600		461,800
Cigarette, Tobacco and Lottery Income Taxes					
Fund	100,800				100,800
Federal Grant					
Fund	<u>5,319,500</u>	<u>9,219,600</u>	<u>30,000</u>	<u>82,200</u>	<u>14,651,300</u>
TOTAL	\$14,309,100	\$17,673,600	\$100,600	\$8,431,500	\$40,514,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Superintendent of Public Instruction is authorized no more than one hundred forty-two (142.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 2019

CHAPTER 136
(H.B. No. 234)

AN ACT

RELATING TO THE APPROPRIATION TO THE MEDICAL BOARDS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Medical Boards the following amounts to be expended according to the designated programs and expense classes from the listed fund for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund	\$309,000	\$271,500		\$580,500
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory				
Fund	\$1,295,400	\$770,000	\$39,500	\$2,104,900
III. BOARD OF NURSING:				
FROM:				
State Regulatory				
Fund	\$953,700	\$676,400	\$34,000	\$1,664,100
IV. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$1,189,500	\$925,500	\$35,400	\$2,150,400
V. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory				
Fund	\$187,000	\$119,800	\$2,800	\$309,600
GRAND TOTAL	\$3,934,600	\$2,763,200	\$111,700	\$6,809,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Medical Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Dentistry	3.60
Board of Medicine	17.00
Board of Nursing	13.00
Board of Pharmacy	15.00
Board of Veterinary Medicine	2.60

Approved March 20, 2019

CHAPTER 137
(H.B. No. 235)

AN ACT

RELATING TO THE APPROPRIATION TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND AMENDING SECTION 72-503, IDAHO CODE, TO INCREASE THE SALARIES OF THE INDUSTRIAL COMMISSIONERS.

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

SECTION 1. There is hereby appropriated to the Industrial Commission the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration					
Fund	\$3,290,300	\$1,725,900	\$44,800	\$1,185,100	\$6,246,100
Peace Officer and Detention Officer Temporary Disability					
Fund	8,600	3,800		156,100	168,500
Miscellaneous Revenue					
Fund	<u>0</u>	<u>45,000</u>	<u>0</u>	<u>0</u>	<u>45,000</u>
TOTAL	\$3,298,900	\$1,774,700	\$44,800	\$1,341,200	\$6,459,600

II. REHABILITATION:

FROM:

Industrial Administration

Fund	\$3,575,200	\$654,200	\$32,100		\$4,261,500
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. CRIME VICTIMS COMPENSATION:					
FROM:					
General					
Fund				\$300,000	\$300,000
Crime Victims Compensation					
Fund	\$855,900	\$531,900	\$6,000	2,000,000	3,393,800
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,200,000</u>	<u>1,200,000</u>
TOTAL	\$855,900	\$531,900	\$6,000	\$3,500,000	\$4,893,800
IV. ADJUDICATION:					
FROM:					
Industrial Administration					
Fund	\$1,927,900	\$553,000	\$1,400		\$2,482,300
GRAND TOTAL	\$9,657,900	\$3,513,800	\$84,300	\$4,841,200	\$18,097,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-two and twenty-five hundredths (132.25) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, 201~~8~~⁹, the annual salary of each member of the industrial commission shall be one hundred ~~four~~ seven thousand ~~twenty one~~ hundred forty-one dollars (\$~~104,020~~^{107,141}). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

Approved March 20, 2019

CHAPTER 138
(H.B. No. 236)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$213,100	\$39,200		\$252,300
State Regulatory				
Fund	9,580,800	2,594,200	\$467,500	12,642,500
Miscellaneous Revenue/ Industrial Safety				
Fund	668,300	100,700	77,700	846,700
Miscellaneous Revenue/ Logging				
Fund	453,400	75,800	35,600	564,800
Miscellaneous Revenue/ School Security Assessment				
Fund	247,900	53,900		301,800
Federal Grant				
Fund	<u>160,600</u>	<u>232,900</u>	<u>0</u>	<u>393,500</u>
TOTAL	\$11,324,100	\$3,096,700	\$580,800	\$15,001,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety is authorized no more than one hundred forty-four (144.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Building Safety any unexpended and unencumbered balances appropriated or reappropriated to the Division of Building Safety from the State Regulatory Fund for the Trackit9 software system for fiscal year 2019, in an amount not to exceed \$100,000, to be used for nonrecurring expenditures related to the Trackit9 software system for the period July 1, 2019, through June 30, 2020.

Approved March 20, 2019

CHAPTER 139
(H.B. No. 237)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS FOR A PROVIDER RATE INCREASE.

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

SECTION 1. There is hereby appropriated to the Division of Vocational Rehabilitation the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund	\$378,000	\$91,600		\$3,972,600	\$4,442,200
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,919,000	\$339,800	\$20,100	\$1,784,500	\$4,063,400
Rehabilitation Revenue and Refunds					
Fund	60,400			1,081,500	1,141,900
Miscellaneous Revenue					
Fund	72,500	1,700		894,500	968,700
Federal Grant					
Fund	<u>8,208,500</u>	<u>1,755,600</u>	<u>74,000</u>	<u>7,729,700</u>	<u>17,767,800</u>
TOTAL	\$10,260,400	\$2,097,100	\$94,100	\$11,490,200	\$23,941,800
III. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$307,600	\$58,200	\$2,600		\$368,400
Miscellaneous Revenue					
Fund	<u>0</u>	<u>3,000</u>	<u>0</u>		<u>3,000</u>
TOTAL	\$307,600	\$61,200	\$2,600		\$371,400
GRAND TOTAL	\$10,946,000	\$2,249,900	\$96,700	\$15,462,800	\$28,755,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty (150.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. PROVIDER RATE INCREASE. By July 1, 2019, or as soon thereafter as practicable, the division administrator of the Division of Vocational Rehabilitation shall provide at least a 4.27% increase in service provision rates to community rehabilitation providers above the state fiscal year 2018 provider rates within the Extended Employment Services Program.

Approved March 20, 2019

CHAPTER 140
(H.B. No. 238)

AN ACT

RELATING TO THE APPROPRIATION TO THE REGULATORY BOARDS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Regulatory Boards the following amounts to be expended according to the designated programs and expense classes from the listed fund for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$306,600	\$384,400			\$691,000
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$534,000	\$302,700	\$4,800		\$841,500
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$2,872,100	\$1,698,300	\$6,800	\$55,100	\$4,632,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$416,900	\$212,300			\$629,200
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$1,074,300	\$599,400	\$16,100		\$1,689,800
GRAND TOTAL	\$5,203,900	\$3,197,100	\$27,700	\$55,100	\$8,483,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Regulatory Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Accountancy	4.00
Board of Prof. Engineers & Land Surveyors	5.00
Bureau of Occupational Licenses	42.00
Outfitters and Guides Licensing Board	6.00
Real Estate Commission	15.00

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Regulatory Boards for the Bureau of Occupational Licenses any unexpended and unencumbered balances appropriated to the Regulatory Boards for the Bureau of Occupational Licenses from the State Regulatory Fund for the upgrade of its database for fiscal year 2019, in an amount not to exceed \$1,021,000, to be used for nonrecurring expenditures related to the upgrade of its database for the period July 1, 2019, through June 30, 2020.

Approved March 20, 2019

CHAPTER 141
(H.B. No. 182)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1704, IDAHO CODE, TO REVISE PROVISIONS REGARDING PRODUCTS THAT MAY BE PRESCRIBED.

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

SECTION 1. That Section 54-1704, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) The interpretation, evaluation and dispensing of prescription drug orders;

(2) Participation in drug and device selection, drug administration, prospective and retrospective drug reviews and drug or drug-related research;

(3) The provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care;

(4) The responsibility for:

(a) Compounding and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(b) Proper and safe storage of drugs and devices, and maintenance of proper records for them; and

(c) The offering or performing of those acts, services, operations or transactions necessary to the conduct, operation, management and control of pharmacy;

(5) The prescribing of:

(a) Dietary fluoride supplements when prescribed according to the American dental association's recommendations for persons whose drinking water is proven to have a fluoride content below the United States department of health and human services' recommended concentration;

(b) Agents for active immunization when prescribed for susceptible persons six (6) years of age or older for the protection from communicable disease;

(c) Opioid antagonists pursuant to section 54-1733B, Idaho Code;

(d) Epinephrine auto-injectors pursuant to sections 54-1733C and 54-1733D, Idaho Code;

(e) Tobacco cessation products pursuant to section 54-1733E, Idaho Code;

(f) Tuberculin purified protein derivative products pursuant to section 54-1733F, Idaho Code; and

(g) Drugs, drug categories, or devices that are specifically authorized in rules adopted by the board. Such drugs and devices shall be prescribed in accordance with the product's federal food and drug administration-approved labeling. Drugs, drug categories or devices authorized by the board under this section shall be and that are limited to conditions that:

(i) Do not require a new diagnosis;

(ii) Are minor and generally self-limiting;

(iii) Have a test that is used to guide diagnosis or clinical decision-making and are waived under the federal clinical laboratory improvement amendments of 1988; or

(iv) In the professional judgment of the pharmacist, threaten the health or safety of the patient should the prescription not be immediately dispensed. In such cases, only sufficient quantity may be provided until the patient is able to be seen by another provider.

The board shall not adopt any rules authorizing a pharmacist to prescribe a controlled drug, compounded drug or biological product;

~~(f) Tobacco cessation products pursuant to section 54-1733E, Idaho Code; and~~

~~(g) Tuberculin purified protein derivative products pursuant to section 54-1733F, Idaho Code.~~

Approved March 21, 2019

CHAPTER 142
(S.B. No. 1004)

AN ACT

RELATING TO THE IDAHO STATE POLICE; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2920, IDAHO CODE, TO ESTABLISH A BLUE ALERT SYSTEM, TO DEFINE TERMS, TO PROVIDE FOR WHEN THE BLUE ALERT SYSTEM MAY BE ACTIVATED, TO PROVIDE CONDITIONS FOR ACTIVATING THE BLUE ALERT SYSTEM, TO PROVIDE FOR TERMINATION OF THE BLUE ALERT SYSTEM, AND TO PROVIDE IMMUNITY IN CERTAIN INSTANCES; AND AMENDING SECTION 5-340, IDAHO CODE, TO PROVIDE FOR THE BLUE ALERT SYSTEM.

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

SECTION 1. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2920, Idaho Code, and to read as follows:

67-2920. BLUE ALERT SYSTEM. (1) There is hereby established a statewide alert system known as "Blue Alert" that shall be developed and implemented by the Idaho state police.

(2) As used in this section:

(a) "Law enforcement agency" means a law enforcement agency with jurisdiction over the search for a suspect in a case involving the death or serious injury of a peace officer or an agency employing a peace officer who is missing in the line of duty; and

(b) "Peace officer" means a person who is certified to exercise the powers of arrest.

(3) The blue alert system may be activated:

(a) When a suspect for a crime involving the death or serious injury of a peace officer has not been apprehended and law enforcement personnel have determined that the suspect may be a serious threat to the public; or

(b) When a peace officer becomes missing while in the line of duty under circumstances warranting concern for such peace officer's safety.

(4) Upon notification by a law enforcement agency that a suspect in a case involving the death or serious injury of a peace officer has not been apprehended and may be a serious threat to the public or to a peace officer or that a peace officer is missing in the line of duty under circumstances warranting concern for such peace officer's safety, the state police shall activate the blue alert system and notify appropriate participants in the blue alert system, as established by rule, if:

(a) A law enforcement agency believes that a suspect has not been apprehended;

(b) A law enforcement agency believes that the suspect may be a serious threat to the public; and

(c) Sufficient information is available to disseminate to the public that could assist in locating the suspect or the missing peace officer. The area of the alert may be less than statewide if the division determines that the nature of the event makes it probable that the suspect did not leave a certain geographic location.

(5) Before requesting activation of the blue alert system, a law enforcement agency shall verify that the criteria described in subsection (4) of this section has been satisfied. The law enforcement agency shall assess the appropriate boundaries of the alert based on the nature of the suspect and the circumstances surrounding the crime or the last known location of the missing peace officer.

(6) The state police shall terminate the blue alert with respect to a particular incident if:

(a) The suspect or peace officer is located or the incident is otherwise resolved; or

(b) The state police determine that the blue alert system is no longer an effective tool for locating the suspect or the peace officer. Law enforcement agencies shall notify the division immediately when the suspect is located and in custody or the peace officer is found.

(7) Any entity or individual involved in the dissemination of a blue alert generated pursuant to this section shall not be liable for any civil damages arising from such dissemination.

SECTION 2. That Section 5-340, Idaho Code, be, and the same is hereby amended to read as follows:

5-340. IMMUNITY OF RADIO AND TELEVISION BROADCASTING ORGANIZATIONS PARTICIPATING IN THE AMBER ALERT AND BLUE ALERT SYSTEMS. No cause of action shall be maintained for civil damages in any court of this state against any radio or television broadcast organization, or the employees, officers, directors, managers or agents of such radio or television broadcast organization, based on the broadcast of information supplied by state law enforcement officials pursuant to the voluntary broadcast notification system commonly known as the:

(1) "Amber Alert," which is used to notify the public of missing or abducted children; or

(2) "Blue Alert," which is used to notify the public pursuant to section 67-2920, Idaho Code.

Approved March 21, 2019

CHAPTER 143
(S.B. No. 1005, As Amended)

AN ACT

RELATING TO HUMAN TRAFFICKING; AMENDING SECTION 18-8601, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 18-8602, IDAHO CODE, TO REVISE THE DEFINITION OF "HUMAN TRAFFICKING" AND TO DEFINE TERMS; AMENDING SECTION 18-8603, IDAHO CODE, TO REVISE A PENALTY; REPEALING SECTION 18-8605, IDAHO CODE, RELATING TO HUMAN TRAFFICKING VICTIM PROTECTION; AMENDING SECTION 18-8303, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 18-8601, Idaho Code, be, and the same is hereby amended to read as follows:

18-8601. LEGISLATIVE INTENT. It is the intent of the legislature to address the growing problem of human trafficking and to provide criminal sanctions for persons who engage in human trafficking in this state. In addition to the other provisions enumerated in this chapter, the legislature finds that it ~~may also be~~ is appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of ~~possible~~ human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.

SECTION 2. That Section 18-8602, Idaho Code, be, and the same is hereby amended to read as follows:

18-8602. ~~HUMAN TRAFFICKING DEFINED~~ DEFINITIONS.

(1) (a) "Human trafficking" means:

(1i) Sex trafficking in which a commercial ~~sex act~~ sexual activity is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or

(2ii) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(b) Human trafficking may include, but is not limited to, the use of the following types of force, fraud, or coercion:

(i) Threatening serious harm to, or physical restraint against, that person or a third person;

(ii) Destroying, concealing, removing, or confiscating any passport, immigration document, or other government-issued identification document;

(iii) Abusing or threatening abuse of the law or legal process against the person or a third person;

(iv) Using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined; or

(v) Using a condition of servitude by means of any scheme, plan, or pattern intended to cause a reasonable person to believe that

if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint or would be threatened with abuse of legal process.

(c) "Sex trafficking" includes all forms of commercial sexual activity, which may include the following conduct:

(i) Sexual conduct, as defined in section 18-5610(2)(a), Idaho Code;

(ii) Sexual contact, as defined in section 18-5610(2)(b), Idaho Code;

(iii) Sexually explicit performance;

(iv) Prostitution; or

(v) Participation in the production of pornography.

(2) "Commercial sexual activity" means sexual conduct or sexual contact in exchange for anything of value, as defined in section 18-5610(2)(c), Idaho Code, illicit or legal, given to, received by, or promised to any person.

SECTION 3. That Section 18-8603, Idaho Code, be, and the same is hereby amended to read as follows:

18-8603. PENALTIES. Notwithstanding any other law to the contrary, on and after July 1, 2006~~19~~, any person who ~~commits a crime as provided for in the following sections, and who, in the commission of such crime or crimes,~~ also commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law: ~~18-905 (aggravated assault), 18-907 (aggravated battery), 18-909 (assault with intent to commit a serious felony), 18-911 (battery with intent to commit a serious felony), 18-913 (felonious administering of drugs), 18-1501(1) (felony injury to child), 18-1505(1) (felony injury to vulnerable adult), 18-1505(3) (felony exploitation of vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable adult), 18-1506 (sexual abuse of a child under the age of sixteen years), 18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of child), 18-1508A (sexual battery of minor child sixteen or seventeen years of age), 18-1509A (enticing of children over the internet), 18-1511 (sale or barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).~~

SECTION 4. That Section 18-8605, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes: 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder committed in the perpetration of rape); 18-4502 (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503 (second-degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve years of age or the defendant is eighteen

years of age); 18-6608 (forcible sexual penetration by use of a foreign object); 18-8602(1)(a)(i) (sex trafficking); and any other offense set forth in section 18-8304, Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen (13) years or an offense that is substantially similar to any of the foregoing offenses under the laws of another jurisdiction or military court or the court of another country.

(2) "Board" means the sexual offender management board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment that involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Foreign conviction" means a conviction under the laws of Canada, Great Britain, Australia or New Zealand, or a conviction under the laws of any foreign country deemed by the U.S. department of state, in its country reports on human rights practices, to have been obtained with sufficient safeguards for fundamental fairness and due process.

(8) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(9) "Jurisdiction" means any of the following: a state, the District of Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, the federal government or a federally recognized Indian tribe.

(10) "Minor" means an individual who has not attained the age of eighteen (18) years.

(11) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another jurisdiction or military court or the court of another country deemed by the U.S. department of state, in its country reports on human rights practices, to have sufficient safeguards for fundamental fairness and due process.

(12) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(13) "Psychosexual evaluation" means an evaluation that specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(14) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(15) "Residence" means the offender's present place of abode.

(16) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(17) "Violent sexual predator" means a person who was designated as a violent sexual predator by the sex offender classification board where such designation has not been removed by judicial action or otherwise.

SECTION 6. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-925 (aggravated sexual battery), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), felony violations of 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5610 (utilizing a person under eighteen years of age for prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1) (a) (i) (sex trafficking), Idaho Code.

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in paragraph (a) of this subsection and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in paragraph (a) of this subsection and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) The department shall have authority to promulgate rules to implement the provisions of this chapter.

Approved March 21, 2019

CHAPTER 144
(S.B. No. 1012)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1908, IDAHO CODE, TO REVISE PROVISIONS REGARDING PUBLIC WORKS CONTRACTORS LICENSE BOARD MEETINGS.

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

SECTION 1. That Section 54-1908, Idaho Code, be, and the same is hereby amended to read as follows:

54-1908. MEETINGS -- QUORUM. The board shall hold not less than ~~four~~ two (42) regular meetings each year, ~~on a day not later than the fifteenth day of the month in each of the months of January, April, July and October,~~ for the purpose of transacting such business as may properly come before it. ~~At the April meeting of e~~Each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may provide in the rules. ~~Four (4) members~~ A majority of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the rules. Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code, and paid from the public works contractors license board fund.

Approved March 21, 2019

CHAPTER 145
(S.B. No. 1013)

AN ACT

RELATING TO THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD;
AMENDING SECTION 54-5004, IDAHO CODE, TO REVISE PROVISIONS REGARDING
MEMBERSHIP OF THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING
BOARD.

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

SECTION 1. That Section 54-5004, Idaho Code, be, and the same is hereby amended to read as follows:

54-5004. IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD. (1) The Idaho heating, ventilation and air conditioning board, referred to as the board, is hereby created and made part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this chapter, and the board shall make, promulgate and publish such rules as may be necessary to carry out the provisions of this chapter. Except as may be limited or prohibited by law, such rules so made and promulgated shall have the force of statute.

(2) The board shall consist of seven (7) members, appointed by the governor, who shall serve at the pleasure of the governor. All board members shall be appointed for a term of three (3) years. Whenever a vacancy occurs, the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term. All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly perform the functions of the board. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time as prescribed by chapter 4, title 59, Idaho Code.

(3) Of the seven (7) board members, two (2) members shall be active HVAC contractors with not less than five (5) years' experience in the HVAC contracting business; one (1) member shall be a city official; one (1) member shall be a county official; one (1) member shall be a private sector mechanical engineer with experience in mechanical system design; one (1) member shall be an representative of the HVAC specialty contractor industry; and one (1) member shall be a member of the general public with an interest in the rights of consumers of HVAC services.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, and every two (2) years thereafter, the members shall elect one (1) of their number to be chairman and one (1) of their number to be vice chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and it may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided in section 59-509(n), Idaho Code.

Approved March 21, 2019

CHAPTER 146
(S.B. No. 1018, As Amended)

AN ACT

RELATING TO PRISONERS; AMENDING SECTION 18-2508, IDAHO CODE, TO REVISE A PROVISION REGARDING THE ESCAPE OR HARBORING OF CERTAIN PERSONS AND TO PROVIDE A PENALTY; AND REPEALING SECTION 18-2509, IDAHO CODE, RELATING TO PUNISHMENT FOR A VIOLATION OF THE PRECEDING SECTION.

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

SECTION 1. That Section 18-2508, Idaho Code, be, and the same is hereby amended to read as follows:

18-2508. ~~INMATES OF PERSONS COMMITTED TO PUBLIC INSTITUTIONS -- ENTICING, AIDING TO ESCAPE, OR HARBORING OR EMPLOYING UNLAWFUL.~~ (1) It shall be unlawful for any person, ~~firm, copartnership, corporation or association~~ to knowingly entice, ~~the escape of or harbor, employ, or aid, assist or abet in the escape, enticing, harboring or employment of any delinquent, insane, feeble-minded or incorrigible person committed to, or confined in any institution maintained by the state for the treatment, education or welfare of delinquent or feeble-minded, incorrigible or insane persons committed to or confined therein.~~

(2) Any person who violates the provisions of subsection (1) of this section shall be guilty of a misdemeanor and on conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) or imprisonment in the county jail for a period not exceeding one (1) year, or both.

SECTION 2. That Section 18-2509, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 2019

CHAPTER 147
(S.B. No. 1019)

AN ACT

RELATING TO CIVIL ACTIONS; AMENDING SECTION 5-509, IDAHO CODE, TO PROVIDE THAT AN ORDER OF SERVICE MUST DIRECT CERTAIN ACTION IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 5-509, Idaho Code, be, and the same is hereby amended to read as follows:

5-509. ORDER OF SERVICE. The order must direct the publication to be made in a newspaper to be designated as most likely to give notice to the person to be served, at least once a week for four (4) consecutive weeks.

In case publication is ordered where the residence of a nonresident or absent defendant is known, ~~the clerk~~ order must direct a copy of the summons and complaint to be deposited within ten (10) days in any ~~post-office~~ post office, directed to the person to be served at his last known ~~post-office~~ post office address. When publication is ordered and made, the service of summons is complete at the expiration of the period of publication. When personal service of summons is ordered and made outside of the state, the service is complete at the time of service.

Approved March 21, 2019

CHAPTER 148
(S.B. No. 1021)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2908, IDAHO CODE, TO PROVIDE FOR AN ORDER WITHHOLDING JUDGMENT AND TO PROVIDE FOR AN INFRACTION ACTION.

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

SECTION 1. That Section 19-2908, Idaho Code, be, and the same is hereby amended to read as follows:

19-2908. CASH DEPOSIT APPLIED TO PAYMENTS OF FINES, FEES, COSTS AND RESTITUTION. When bail has been posted by cash deposit and remains on deposit at the time of the judgment or order withholding judgment, the clerk of the court shall, under the direction of the court, apply the money in satisfaction of fines, fees, costs and restitution imposed in the case and fines, fees, costs and restitution that have been imposed against the defendant in any other criminal or infraction action, and after satisfying the fines, fees, costs and restitution, shall refund the surplus, if any, to the person posting the cash deposit.

Approved March 21, 2019

CHAPTER 149
(S.B. No. 1037, As Amended)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1230, IDAHO CODE, TO CLARIFY THAT PRIVATE LAND SURVEYORS MAY ACCESS PRIVATE LANDS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1230, Idaho Code, be, and the same is hereby amended to read as follows:

54-1230. PUBLIC LAND SURVEYING -- RIGHT OF ENTRY. (1) Any person duly licensed by the state of Idaho as a professional land surveyor, including all subordinates subject to the supervision of a licensed surveyor while undertaking land survey activities, and any surveyor or his subordinate employed in the execution of any survey authorized by the congress of the United States may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any work which that may be necessary to carry out the objects of then existing laws relative to surveys, and may establish permanent station marks, and may erect the necessary signals and temporary observatories, doing no unnecessary injury thereby.

(2) Nothing in this section shall affect the right of entry established in sections 40-1310 and 40-2301, Idaho Code.

(3) A surveyor or his subordinate shall not enter railroad property pursuant to this section without written permission from the railroad's chief engineering officer or his designee.

(4) The surveyor, or any employee or agent of the land surveyor, may not enter upon land for the purpose of surveying, performing other survey work, or establishing a permanent survey monument without first providing prior notice to the landowner or occupant by first class mail or by personal no-

tice. If the land is occupied by a person other than the landowner, prior notice must also be given to the occupant by first class mail or by personal notice. Notice that is given by first class mail must be mailed as soon as practicable following the contract or agreement to perform the work and at least seven (7) days prior to the entry onto the land unless the notice period is waived in writing by the landowner, occupant, or an agent thereof. Notice that is given by personal notice must be hand-delivered to the landowner or occupant or, if hand delivery cannot be accomplished, it may be posted in a conspicuous place where the landowner or occupant may reasonably be expected to see the notice. The notice shall give the professional land surveyor's name, address, telephone number, purpose, availability of the survey, and the presence of any temporary or permanent monuments or other markers to be established by the surveyor and left on the land. The surveyor or his agent or employee shall cooperate with the landowner, occupant, or agent thereof to avoid disruption of a business or agricultural operation.

Approved March 21, 2019

CHAPTER 150
(S.B. No. 1053)

AN ACT

RELATING TO THE BARBER AND COSMETOLOGY SERVICES ACT; AMENDING SECTION 54-5802, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 54-5810, IDAHO CODE, TO PROVIDE FOR BARBER AND BARBER-STYLIST APPRENTICESHIP AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-5817, IDAHO CODE, TO PROVIDE FOR BARBER AND BARBER-STYLIST APPRENTICESHIP.

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

SECTION 1. That Section 54-5802, Idaho Code, be, and the same is hereby amended to read as follows:

54-5802. DEFINITIONS. As used in this chapter:

- (1) "Apprentice" means a person registered with the barber and cosmetology services licensing board to learn an occupation in a licensed establishment who, while so learning, performs or assists in performing any practices of barbering, barber-styling, or cosmetology.
- (2) "Approved or licensed school" means a postsecondary barber or cosmetology school that:
 - (a) Is licensed under its official name by the barber and cosmetology services licensing board; and
 - (b) Admits as students only those individuals who meet the requirements of paragraphs (a) and (b) in section 54-5810(7), Idaho Code.
- (3) "Barber" means a person licensed to practice barbering as defined in this section.
- (4) "Barbering" means any one (1) or any combination of the following practices when performed on the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:
 - (a) Shaving the face or cutting, trimming, arranging, dressing, curling, cleansing, singeing or performing similar work on the hair;
 - (b) Fitting, cutting or dressing hairpieces or toupees;
 - (c) Giving facial and scalp massages or treatments with oils, creams, lotions or other preparations, either by hand or by a mechanical appliance; and
 - (d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or other parts of the upper body.

(5) "Barber-styling" means any one (1) or any combination of the following practices when performed on the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

(a) Shaving the face or cutting, trimming, arranging, dressing, curling, waving by any method, straightening, cleansing, singeing, bleaching, coloring or performing similar work on the hair;

(b) Fitting, cutting or dressing hairpieces or toupees;

(c) Giving facial and scalp massages or treatments with oils, creams, lotions or other preparations, either by hand or by a mechanical appliance; and

(d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or other parts of the upper body.

(6) "Barber-stylist" means a person licensed to practice barber-styling as defined in this section.

(7) "Board" means the barber and cosmetology services licensing board established by section 54-5806, Idaho Code.

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

(9) "Cosmetologist" means a person licensed to practice cosmetology as defined in this section.

(10) "Cosmetology" means any one (1) or any combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

(a) Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring or performing similar work on the hair;

(b) Fitting, cutting or dressing hairpieces or toupees;

(c) Noninvasive care of the skin by application of cosmetic preparations, antiseptics, tonics, lotions, creams and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any class I medical device, as classified by the United States food and drug administration, designed for care of the skin, except that a class II medical device designed for care of the skin may be used as directed and supervised by an authorized and licensed health care practitioner; temporary removal of superfluous hair by lotions, creams, waxing, tweezing, depilatories or other means; and tinting or perming the eyebrows and eyelashes; and

(d) Manicuring and pedicuring nails and applying artificial nails.

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

(12) "Electrologist" means a person licensed to practice electrology, as defined in this section, and skilled in the permanent removal of unwanted hair.

(13) "Electrology" or "electrolysis" means the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system through the use of equipment and devices approved by and registered with the United States food and drug administration.

(14) "Establishment" means a place licensed under this chapter, other than a licensed school, where barbering, barber-styling, cosmetology or electrology is practiced.

(15) "Esthetician" means a person licensed to practice esthetics as defined in this section.

(16) "Esthetics" means noninvasive care of the skin by application of cosmetic preparations, antiseptics, tonics, lotions, creams and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any class I medical device, as

classified by the United States food and drug administration, designed for care of the skin, except that a class II medical device designed for care of the skin may be used as directed and supervised by an authorized and licensed health care practitioner; temporary removal of superfluous hair by lotions, creams, waxing, tweezing, depilatories or other means; and tinting or perming the eyebrows and eyelashes.

(17) "Haircutter" means a person licensed to practice haircutting as defined in this section.

(18) "Haircutting" means cutting, trimming, arranging, dressing, curling, cleansing, singeing or performing similar work on the hair and fitting, cutting or dressing hairpieces or toupees.

(19) "Instructor" means a barber, barber-stylist or cosmetologist licensed to teach barbering, barber-styling or cosmetology in a barber school, a cosmetology school or an establishment meeting the requirements for apprenticeship training.

(20) "Instructor trainee" means a barber, barber-stylist or cosmetologist attending a licensed school to receive training to teach barbering, barber-styling or cosmetology.

(21) "Makeover or glamour photography business" means a business offering photographic services to the general public in which the business's employees apply cosmetic products to customers' faces or arrange the hair of customers in connection with the sale or attempted sale of photographic services.

(22) "Makeup artist" means a person certificated to practice makeup artistry as defined in this section.

(23) "Makeup artistry" means noninvasive care of the skin by application of cosmetic preparations for cleansing and the application of makeup, which includes the application of cosmetics or any pigment product that is used to cover, camouflage or decorate the skin.

(24) "Nail technician" means a person licensed to practice nail technology as defined in this section.

(25) "Nail technology" means any one (1) or more of the following practices when performed on the human body:

- (a) Manicuring and pedicuring nails;
- (b) Applying artificial nails; and
- (c) Massaging the hands and feet.

(26) "Nail technology instructor" means a nail technician licensed to teach nail technology at a school of cosmetology.

(27) "Person" means a human individual.

(28) "Retail cosmetics dealer" means a stationary business offering cosmetic products for sale at retail to the general public, in which the business's employees apply cosmetic products to customers' faces in connection with the sale or attempted sale of the products without compensation from the customer other than the regular price of the products.

(29) "Retail thermal styling equipment dealer" means a retail business that offers thermal styling equipment, such as curling irons, curling wands, flat irons, heated hair rollers, blow-dryers or other devices using heat to style hair, for sale at retail to members of the general public and whose employees engage in the limited use of thermal styling equipment on customers in connection with the sale or attempted sale of the equipment without compensation from the customer other than the regular price of the equipment.

(30) "Student" means a person learning barbering, barber-styling, cosmetology or electrology at a licensed school who, while so learning, performs or assists in performing any practices of barbering, barber-styling, cosmetology or electrology.

SECTION 2. That Section 54-5810, Idaho Code, be, and the same is hereby amended to read as follows:

54-5810. QUALIFICATIONS FOR LICENSURE -- INSTRUCTORS -- APPRENTICES -- STUDENTS. (1) To qualify for licensure under this chapter, an applicant for licensure must:

- (a) Be at least sixteen and one-half (16 1/2) years of age;
- (b) Have completed at least two (2) years of high school or have attained an equivalent education as determined by the board;
- (c) Be of good moral character; and
- (d) Pass an examination for the occupation in which the applicant is seeking licensure, which examination shall be conducted or approved by the board.

(2) Except as otherwise provided, and in addition to the requirements listed in subsection (1) of this section, an applicant for licensure:

- (a) As a barber, must have:
 - (i) Completed and graduated from a course of instruction of at least nine hundred (900) hours in a barber school approved by the board; or
 - (ii) Completed at least one thousand eight hundred (1,800) hours as an apprentice in an apprenticeship that covered all aspects of the practice of barbering;
- (b) As a barber-stylist, must have:
 - (i) Completed and graduated from a course of instruction of at least one thousand five hundred (1,500) hours in a barber school approved by the board; or
 - (ii) Completed at least three thousand (3,000) hours as an apprentice in an apprenticeship that covered all aspects of the practice of barber-styling;
- (c) As a cosmetologist, must have:
 - (i) Completed and graduated from a course of instruction of at least one thousand six hundred (1,600) hours in a cosmetology school approved by the board; or
 - (ii) Completed at least three thousand two hundred (3,200) hours as an apprentice in an apprenticeship that covered all aspects of the practice of cosmetology;
- (d) As an electrologist, must have:
 - (i) Completed and graduated from a course of instruction of at least six hundred (600) hours in a school approved by the board; or
 - (ii) Completed at least one thousand two hundred (1,200) hours as an apprentice in a cosmetology establishment under the direct personal supervision of a licensed electrologist instructor. Such establishment must have at least one (1) licensed electrologist on-site in accordance with board rules;
- (e) As an esthetician, must have:
 - (i) Completed and graduated from a course of instruction of at least six hundred (600) hours in a school approved by the board; or
 - (ii) Completed at least one thousand two hundred (1,200) hours as an apprentice in a cosmetology establishment under the direct personal supervision of a licensed cosmetology instructor. Such establishment must have at least one (1) licensed esthetician on-site in accordance with board rules;
- (f) As a haircutter, must have completed and graduated from a course of instruction of at least nine hundred (900) hours in a school approved by the board;
- (g) As a nail technician, must have:

- (i) Completed and graduated from a course of instruction of at least four hundred (400) hours in a school approved by the board; or
 - (ii) Completed at least eight hundred (800) hours as an apprentice in a cosmetology establishment under the direct personal supervision of a licensed cosmetology instructor. Such establishment shall have at least one (1) licensed nail technician on-site in accordance with board rules.
- (3) To qualify as a barber instructor, an applicant must:
 - (a) Hold a current barber license;
 - (b) Pass an examination approved by the board; and
 - (c) Have at least five (5) years of experience as a licensed barber or have satisfactorily completed:
 - (i) A minimum six (6) month course of barber instructing as a student in a licensed barber school; or
 - (ii) A minimum three (3) month course of barber instructing as a student in a licensed barber school, if the applicant has at least two (2) years of experience as a licensed barber.
- (4) To qualify as a barber-stylist instructor, an applicant must:
 - (a) Hold a current barber-stylist license or a cosmetologist license;
 - (b) Pass an examination approved by the board; and
 - (c) Have at least five (5) years of experience as a licensed barber-stylist or have satisfactorily completed:
 - (i) A minimum six (6) month course of barber-stylist instructing as a student in a licensed barber school; or
 - (ii) A minimum three (3) month course of barber-stylist instructing as a student in a licensed barber school, if the applicant has at least two (2) years of experience as a licensed barber-stylist.
- (5) To qualify as an instructor of cosmetology, electrology, esthetics or nail technology, an applicant must:
 - (a) Have completed twelve (12) college credit hours or an equivalent education as determined by the board or pass an examination required by board rules;
 - (b) Hold a current license as a cosmetologist, electrologist, esthetician or nail technician; and
 - (c) Have at least five (5) years of experience as a licensed cosmetologist, electrologist, esthetician or nail technician, which years of experience immediately precede the application for an instructor's license, or have satisfactorily completed:
 - (i) A minimum six (6) month teacher's course of instruction in a school of cosmetology; or
 - (ii) A minimum three (3) month teacher's course of instruction in a school of cosmetology, if the applicant has at least two (2) years of experience as a licensed cosmetologist, electrologist, esthetician or nail technician.
- (6) To be qualified to hold an apprenticeship for purposes of this chapter, a person must:
 - (a) Be at least sixteen and one-half (16 1/2) years of age;
 - (b) Have completed at least two (2) years of high school or have attained an equivalent education as determined by the board; and
 - (c) Be registered as an apprentice with the board.
- (7) To be considered a student for purposes of this chapter, a person must:
 - (a) Be at least sixteen and one-half (16 1/2) years of age;
 - (b) Have completed at least two (2) years of high school or have attained an equivalent education as determined by the board; and
 - (c) Be registered as a student in a licensed barber school or cosmetology school.

SECTION 3. That Section 54-5817, Idaho Code, be, and the same is hereby amended to read as follows:

54-5817. PRACTICE OF BARBERING, BARBER-STYLING, OR COSMETOLOGY APPRENTICE. No barber, barber-stylist, or cosmetology apprentice may practice independently. A barber, barber-stylist, or cosmetology apprentice may perform any and all acts necessary for professional training in the cosmetology profession within the scope of this chapter when such acts are performed in compliance with board rule, including immediate personal supervision of the apprentice by a licensed instructor. Barber or cosmetology establishments employing apprentices shall keep a daily work record of the attendance of such apprentices and shall, upon the termination of such apprenticeship, certify to the board the total number of hours worked and the types of instruction given to the apprentice.

Approved March 21, 2019

CHAPTER 151
(S.B. No. 1054)

AN ACT

RELATING TO REGIONAL BEHAVIORAL HEALTH BOARDS; AMENDING SECTION 39-3134, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPOINTING AUTHORITY FOR REGIONAL BEHAVIORAL HEALTH BOARDS.

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

SECTION 1. That Section 39-3134, Idaho Code, be, and the same is hereby amended to read as follows:

39-3134. REGIONAL BEHAVIORAL HEALTH BOARD -- MEMBERS -- TERMS -- APPOINTMENT. A regional behavioral health board for each region shall consist of twenty-three (23) members and shall be appointed as provided herein. All meetings of the regional behavioral health board shall be held in accordance with the open meetings law as provided for in chapter 2, title 74, Idaho Code. Members shall be comprised of the following: three (3) county commissioners; two (2) department of health and welfare employees who represent the behavioral health system within the region; one (1) parent of a child with a serious emotional disturbance; one (1) parent of a child with a substance use disorder; a law enforcement officer; one (1) adult mental health services consumer representative; one (1) mental health advocate; one (1) substance use disorder advocate; one (1) adult substance use disorder services consumer representative; one (1) family member of an adult mental health services consumer; one (1) family member of an adult substance use disorder services consumer; one (1) prevention specialist; a private provider of mental health services within the region; a private provider of substance use disorder services within the region; a representative of the elementary or secondary public education system within the region; a representative of the juvenile justice system within the region; a representative of the adult correction system within the region; a representative of the judiciary appointed by the administrative district judge; a physician or other licensed health practitioner from within the region; and a representative of a hospital within the region. The consumer, parent and family representatives shall be selected from nominations submitted by behavioral health consumer and advocacy organizations. The board may have nonvoting members as necessary to fulfill its roles and responsibilities. The board shall meet at least twice each year and shall annually elect a chairperson and other officers as it deems appropriate.

The appointing authority in each region shall be the current chair of the regional behavioral health board, one (1) representative of the department of health and welfare, and one (1) ~~chair of a board of county commissioners~~ of a county situated within the region. The committee shall meet annually or as needed to fill vacancies on the board.

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

Approved March 21, 2019

CHAPTER 152
(S.B. No. 1055)

AN ACT

RELATING TO MARRIAGE LICENSES; REPEALING SECTION 32-412A, IDAHO CODE, RELATING TO AN EDUCATIONAL PAMPHLET REGARDING AIDS.

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

SECTION 1. That Section 32-412A, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 2019

CHAPTER 153
(S.B. No. 1069)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1849, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTRACTS WITH PROVIDERS OF DENTAL SERVICES; AND AMENDING SECTION 41-3444, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTRACTS WITH PROVIDERS OF DENTAL SERVICES.

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

SECTION 1. That Section 41-1849, Idaho Code, be, and the same is hereby amended to read as follows:

41-1849. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that any the provider agree to adopt fees set by the person for dental care services that are not covered services under the contract. "Covered services" as used in this section means dental care services and procedures under the applicable dental plan, dental plan contract, or plan benefits subject to such contractual limitations on benefits of the dental plan, dental plan contracts or plan benefits as may apply for which payment is available to the covered person or dentist under the covered person's

plan or contract or for which payment to the covered person or to the dentist would be available but for the application of contractual limitations on reimbursement, such as deductibles, copayments, coinsurance, and waiting periods. All services or procedures are no longer covered services, and the plan can no longer impose, contractually or otherwise, a fee schedule or other limitation when the following criteria have been met:

(a) When the third-party payer is no longer liable for paying for an individual service or a procedure, in part or in whole, due to calendar-year limitations or benefit-year limitations; and

(b) A patient has received dental services and procedures that equal an additional one hundred percent (100%) of the amount of the patient's capped annual maximum benefit for the calendar year or benefit year.

Once a patient's capped annual maximum benefit amount for a calendar year or benefit year has been exceeded by one hundred percent (100%), a dentist may choose to provide dental services or procedures according to a plan's fee schedule or to provide dental services or procedures at a fee agreed upon with the patient. The dentist must confer with and provide notice to the patient regarding the patient's change in fee status, and any agreed-upon fee shall not exceed the lowest fee available to the dentist's uninsured patients.

(2) This section shall apply to any contract with providers for dental services that is issued after January December 31, 20119. Contracts that are in existence on January December 31, 20119, shall be brought into compliance on the next anniversary date, the renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

SECTION 2. That Section 41-3444, Idaho Code, be, and the same is hereby amended to read as follows:

41-3444. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that any the provider agree to adopt fees set by the person for dental care services that are not covered services under the contract. "Covered services" as used in this section means dental care services and procedures under the applicable dental plan, dental plan contract, or plan benefits subject to such contractual limitations on benefits of the dental plan, dental plan contracts or plan benefits as may apply for which payment is available to the covered person or dentist under the covered person's plan or contract or for which payment to the covered person or to the dentist would be available but for the application of contractual limitations on reimbursement, such as deductibles, copayments, coinsurance, and waiting periods. All services or procedures are no longer covered services, and the plan can no longer impose, contractually or otherwise, a fee schedule or other limitation when the following criteria have been met:

(a) When the third-party payer is no longer liable for paying for an individual service or a procedure, in part or in whole, due to calendar-year limitations or benefit-year limitations; and

(b) A patient has received dental services and procedures that equal an additional one hundred percent (100%) of the amount of the patient's capped annual maximum benefit for the calendar year or benefit year.

Once a patient's capped annual maximum benefit amount for a calendar year or benefit year has been exceeded by one hundred percent (100%), a dentist may choose to provide dental services or procedures according to a plan's fee schedule or to provide dental services or procedures at a fee agreed upon with the patient. The dentist must confer with and provide notice to the patient regarding the patient's change in fee status, and any

agreed-upon fee shall not exceed the lowest fee available to the dentist's uninsured patients.

(2) This section shall apply to any contract with providers for dental services that is issued after January December 31, 2011~~9~~. Contracts that are in existence on January December 31, 2011~~9~~, shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

Approved March 21, 2019

CHAPTER 154
(S.B. No. 1079)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 65-202, IDAHO CODE, TO REVISE FINANCIAL RELIEF AND ASSISTANCE PROVISIONS.

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

SECTION 1. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to:

(1) Oversee the management and operation of the veterans homes in the state and state veterans cemeteries and provide care to veterans of the armed forces of the United States under such rules as the administrator may, from time to time, adopt.

(2) Extend financial relief and assistance to ~~disabled or~~ destitute ~~wartime~~ veterans and to those dependent upon such ~~disabled or~~ destitute ~~wartime~~ veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt.

(3) Collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at a state veterans cemetery.

(4) Prescribe, with the approval of the commission, the qualifications of all personnel in accordance with the Idaho personnel system law. The administrators in charge of state veterans homes, the office of veterans advocacy and state veterans cemeteries shall be considered nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code, and shall serve at the pleasure of the administrator of the division of veterans services.

(5) Accept gifts, grants, contributions and bequests of funds, and personal property to the state of Idaho for the benefit of veterans of the armed forces of the United States.

(6) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of services to veterans of the armed forces of the United States.

(7) Administer, with the advice and approval of the commission, moneys in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(8) Establish by rule charges related to interment, disinterment and reinterment in a state veterans cemetery and the administrator is hereby directed to cause such charges to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(9) In his discretion, assume control of the cremated remains of deceased persons qualified for interment in a state veterans cemetery, apply for burial and plot allowance benefits paid by the United States department of veterans affairs for such deceased persons and inter in a state veterans cemetery the cremated remains of deceased persons qualified for interment in a state veterans cemetery.

(10) Administer programs offered by the United States department of veterans affairs for the certification and supervision of educational and training opportunities for veterans.

Approved March 21, 2019

CHAPTER 155
(S.B. No. 1080)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 65-704, IDAHO CODE, TO PROVIDE THAT INTEREST GENERATED BY MONEYS IN THE IDAHO VETERANS RECOGNITION INCOME FUND SHALL BE MAINTAINED BY THE DIVISION OF VETERANS SERVICES.

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

SECTION 1. That Section 65-704, Idaho Code, be, and the same is hereby amended to read as follows:

65-704. IDAHO VETERANS RECOGNITION INCOME FUND. (1) There is hereby created in the state treasury the "Idaho veterans recognition income fund."

(2) The fund shall consist of moneys transferred from the Idaho veterans recognition fund, and interest generated by such moneys in the fund shall be maintained by the division of veterans services.

(3) The fund shall be used solely to benefit veterans in Idaho, with priority given to activities that serve disabled veterans.

(4) Moneys in the Idaho veterans recognition income fund are subject to appropriation by the legislature.

(5) Any unencumbered moneys remaining in the fund on June 30 of each year shall be transferred back to the Idaho veterans recognition fund.

Approved March 21, 2019

CHAPTER 156
(S.B. No. 1081)

AN ACT

RELATING TO VETERANS; REPEALING SECTION 65-208, IDAHO CODE, RELATING TO TRANSPORTATION OF WHEELCHAIR-BOUND VETERANS.

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

SECTION 1. That Section 65-208, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 2019

CHAPTER 157
(S.B. No. 1082)

AN ACT

RELATING TO THE STATE BRAND BOARD; AMENDING SECTION 25-1122, IDAHO CODE, TO REVISE CERTAIN FEES REGARDING OWNERSHIP AND TRANSPORTATION CERTIFICATES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-1160, IDAHO CODE, TO REVISE PROVISIONS REGARDING BRAND INSPECTION FEES FOR HORSES, MULES, AND ASSES, TO PROVIDE FOR EQUINE FARM SERVICE FEES, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-1122, Idaho Code, be, and the same is hereby amended to read as follows:

25-1122. OWNERSHIP AND TRANSPORTATION CERTIFICATE. (1) The owner or owners of any horses, mules or asses desiring to transport them within the state for any purpose other than sale or trade, may, upon request to the state brand inspector, be issued an ownership and transportation certificate, which certificate shall be issued in lieu of the required brand inspection certificate or other written permit for each horse, mule or ass to be transported.

(2) An ownership and transportation certificate may be used by the owner or owners of a horse, mule or ass for identification purposes and as prima facie proof of ownership of any animal described by such a certificate.

(3) The ownership and transportation certificate shall be valid as long as the horse, mule or ass described therein remains under the ownership of the person or persons to whom the certificate is issued.

(4) The ownership and transportation certificate of a horse, mule or ass must accompany the animal for which it is issued at all times while the animal is in transit.

(5) Each ownership and transportation certificate of a horse, mule or ass shall identify the particular animal by color, markings, sex, age and, where applicable, by brand, registration number, tattoo or other marks as provided for by regulation of the state brand board.

(6) There shall be a fee in an amount to be set by the state brand board, not to exceed ~~thirtyseventy~~-five dollars (\$375.00), for issuance of each ownership and transportation certificate, which fee shall be in addition to any brand inspection certificate or other written permit which may be requested by the owner or owners of a horse, mule or ass under other provisions of law.

(7) Upon any change of ownership of a horse, mule or ass for which an ownership and transportation certificate has been issued, the former owner or owners may transfer the certificate to the new owner or owners upon payment of a fee to be set by the state brand board, not to exceed ~~thirtyseventy~~-five dollars (\$375.00) per certificate.

(8) The state brand board may, under such terms and conditions as it deems necessary to protect ownership of horses, mules and asses, provide by regulation that ownership and transportation certificates may be used in transportation of horses, mules or asses to and from points outside of the state of Idaho, and may provide that similar certificates from other states may be used for proof of ownership of horses, mules or asses entering Idaho.

SECTION 2. That Section 25-1160, Idaho Code, be, and the same is hereby amended to read as follows:

25-1160. BRAND INSPECTION FEES. (1) The maximum fee which shall be charged by the state brand inspector and his deputies for brand inspection shall be:

- (a) One dollar and twenty-five cents (\$1.25) for each head of cattle;
- (b) ~~One dollar and fifty cents (\$1.50)~~ Ten dollars (\$10.00) for each head of horses, mules, and asses.

(2) A minimum fee of twenty dollars (\$20.00) shall be charged by the state brand inspector and his deputies for each brand inspection certificate issued, whether for cattle, horses, mules, or asses, or a combination thereof. The minimum brand inspection fee shall apply only in those cases when a brand inspector must travel from his assigned duty post. There shall be an equine farm service fee in an amount to be set by the state brand board, not to exceed fifty-five dollars (\$55.00), for each case a brand inspector must travel from his assigned duty post to complete a brand inspection certificate for horses, mules, or asses, which fee shall be in addition to any brand inspection certificate or other written permit requested by the owner or owners of a horse, mule, or ass under any other provisions of law. Live-stock auctions and feedlots currently approved by the Idaho state department of agriculture are exempt from the equine farm service fee.

(3) The minimum fee for brand inspection services at any normally scheduled livestock auction sale is fifty dollars (\$50.00) per day, and shall be paid by the livestock auction sale, whether or not the inspection fee received from the owners of livestock inspected equals the minimum fee. If the fees paid by the owners of livestock inspected at the sale exceed the minimum fee, the actual amount of fees collected shall be paid, rather than the minimum amount.

(4) The fee for brand inspection services at any livestock auction sale ~~which that~~ is not a normally scheduled livestock auction sale shall be:

- (a) Eighteen dollars (\$18.00) per hour for each hour that each brand inspector spends engaged in the performance of brand inspection services at the livestock auction sale;
- (b) A mileage rate as established by the state board of examiners per mile per vehicle for each mile that said brand inspector(s) must travel to and from the sale from his assigned duty post.

The minimum fee, not including mileage, shall be the actual hours worked, or thirty-six dollars (\$36.00) per day, or the inspection fees as set forth in subsection (1) of this section, whichever is greater.

(5) The state brand board may adopt a schedule or schedules of fees ~~which that~~ are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees. All such fees shall be paid by the owner of the cattle, horses, mules, and asses and credited to the state brand account.

(6) All brand inspection fees, and all other fees required by law to be collected by the brand inspector, are due and payable at the time of inspection, but the brand board may, by rule, allow all of such fees to be paid on a schedule that requires payment at least monthly, after receiving a request for such delayed payment schedule and after such request is approved by the state brand inspector. The brand board may require a security deposit to ensure the prompt payment of all fees owed to the state. Failure to pay as required shall be cause for the brand inspector to file an action in the district court of the county wherein the inspection was made for the amount of all fees owed, plus all costs and reasonable attorney's fees associated with the action plus interest at the rate specified in section 28-22-104, Idaho Code, on the amount owed from the due date.

(7) Any brand inspector who must travel beyond the border of the state of Idaho to investigate a possible violation of this chapter is entitled to a mileage rate, as established by the state board of examiners, per mile per vehicle for each mile that the brand inspector must travel to and from his assigned duty post, and eighteen dollars (\$18.00) per hour for each hour that each brand inspector spends engaged in the investigation. The minimum fee for each brand inspector, not including mileage, shall be the actual hours worked, or thirty-six dollars (\$36.00) per day, or the hourly inspection fees, whichever is greater.

Approved March 21, 2019

CHAPTER 158
(S.B. No. 1083)

AN ACT

RELATING TO IRRIGATION AND DRAINAGE; AMENDING SECTION 42-1102, IDAHO CODE, TO REVISE PROVISIONS REGARDING ENCROACHMENTS ON CERTAIN RIGHTS-OF-WAY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-1203, IDAHO CODE, TO REVISE PROVISIONS REGARDING MAINTENANCE OF EMBANKMENTS; AMENDING SECTION 42-1204, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PREVENTION OF DAMAGE TO OTHERS ASSOCIATED WITH DITCHES, CANALS, WORKS, OR OTHER AQUEDUCTS; AMENDING SECTION 42-1207, IDAHO CODE, TO REVISE PROVISIONS REGARDING BURIED IRRIGATION CONDUIT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-1209, IDAHO CODE, TO REVISE PROVISIONS REGARDING ENCROACHMENTS ON CERTAIN EASEMENTS AND RIGHTS-OF-WAY.

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

SECTION 1. That Section 42-1102, Idaho Code, be, and the same is hereby amended to read as follows:

42-1102. OWNERS OF LAND -- RIGHT TO RIGHT-OF-WAY. When any such owners or claimants to land have not sufficient length of frontage on a stream to afford the requisite fall for a ditch, canal or other conduit on their own premises for the proper irrigation thereof, or where the land proposed to be irrigated is back from the banks of such stream, and convenient facilities otherwise for the watering of said lands cannot be had, such owners or claimants are entitled to a right-of-way through the lands of others, for the purposes of irrigation. The right-of-way shall include, but is not limited to, the right to enter the land across which the right-of-way extends, for the purposes of cleaning, maintaining and repairing the ditch, canal or conduit, and to occupy such width of the land along the banks of the ditch, canal or conduit as is necessary to properly do the work of cleaning, maintaining and repairing the ditch, canal or conduit with personnel and with such equipment as is commonly used, or is reasonably adapted, to that work. The right-of-way also includes the right to deposit on the banks of the ditch or canal the debris and other matter necessarily required to be taken from the ditch or canal to properly clean and maintain it, but no greater width of land along the banks of the canal or ditch than is absolutely necessary for such deposits shall be occupied by the removed debris or other matter. Provided, that in the making, constructing, keeping up and maintenance of such ditch, canal or conduit, through the lands of others, the person, company or corporation, proceeding under this section, and those succeeding to the interests of such person, company or corporation, must keep such ditch, canal or other conduit in good repair, and are liable to the owners or claimants of the lands crossed by such work or aqueduct for all damages occasioned by the

overflow thereof, or resulting from any neglect or accident (unless the same be unavoidable) to such ditch or aqueduct.

The existence of a visible ditch, canal or conduit shall constitute notice to the owner, or any subsequent purchaser, of the underlying servient estate, that the owner of the ditch, canal or conduit has the right-of-way and incidental rights confirmed or granted by this section.

Rights-of-way provided by this section are essential for the operations of the ditches, canals and conduits. No person or entity shall cause or permit any encroachments onto the right-of-way, including public or private roads, utilities, fences, gates, pipelines, structures, or other construction or placement of objects, without the written permission of the owner or operator of the right-of-way, in order to ensure that any such encroachments will not unreasonably or materially interfere with the use and enjoyment of the right-of-way. Encroachments of any kind placed in such right-of-way without express written permission of the owner or operator of the right-of-way shall be removed at the expense of the person or entity causing or permitting such encroachment, upon the request of the owner or operator of the right-of-way, in the event that any such encroachments unreasonably or materially interfere with the use and enjoyment of the right-of-way. Nothing in this section shall in any way affect the exercise of the right of eminent domain for the public purposes set forth in section 7-701, Idaho Code.

This section shall apply to ditches, canals or other conduits existing on the effective date of this act, as well as to ditches, canals or other conduits constructed after such effective date.

SECTION 2. That Section 42-1203, Idaho Code, be, and the same is hereby amended to read as follows:

42-1203. **MAINTENANCE OF EMBANKMENTS.** The owner, ~~or owners~~, and operators of any irrigating ditch, canal or conduit shall carefully keep and maintain the embankments thereof in good repair, in order to prevent the water from wasting during the irrigation season, and shall not at any time permit a greater quantity of water to be turned into said ditch, canal or conduit than the banks thereof will easily contain or than can be used for beneficial or useful purposes; it being the meaning of this section to prevent the wasting and useless discharge and running away of water. The duties referenced in this section, whether statutory or common law, require reasonable care only, and shall not be construed to impose strict liability or to otherwise enlarge the liability of the owner, ~~or owners~~, or operators of any irrigating ditch, canal or conduit. The owners, ~~or constructors~~, or operators of such ditches, canals, works or other aqueducts, while responsible for their own acts or omissions, shall not be liable for damage or injury caused by: (1) The diversion or discharge of water into a ditch, canal or conduit by a third party without the permission of the owner, ~~or owners~~, or operators of the ditch, canal or conduit; (2) Any other act or omission of a third party, other than an employee or agent of the owner, ~~or owners~~, or operators of the ditch, canal or conduit; or (3) An act of God, including fire, earthquake, storm or similar natural phenomenon. The provisions of this section shall not be construed to impair any defense that an owner, ~~or constructor~~, or operator of a ditch, canal, works or other aqueduct may assert in a civil action.

SECTION 3. That Section 42-1204, Idaho Code, be, and the same is hereby amended to read as follows:

42-1204. **PREVENTION OF DAMAGE TO OTHERS.** The owners, ~~or constructors~~, or operators of ditches, canals, works or other aqueducts, and their successors in interest, using and employing the same to convey the waters of any stream or spring, whether the said ditches, canals, works or aqueducts be

upon the lands owned or claimed by them, or upon other lands, must carefully keep and maintain the same, and the embankments, flumes or other conduits, by which such waters are or may be conducted, in good repair and condition, so as not to damage or in any way injure the property or premises of others. The duties referenced in this section, whether statutory or common law, require reasonable care only, and shall not be construed to impose strict liability or to otherwise enlarge the liability of the owner, ~~or owners,~~ or operators of any irrigating ditch, canal, works or other aqueduct. The owners, ~~or constructors,~~ or operators of such ditches, canals, works or other aqueducts, while responsible for their own acts or omissions, shall not be liable for damage or injury caused by: (1) The diversion or discharge of water into a ditch, canal, works or other aqueduct by a third party without the permission of the owner, ~~or owners,~~ or operators of the ditch, canal, works or other aqueduct; (2) Any other act or omission of a third party, other than an employee or agent of the owner, ~~or owners,~~ or operators of the ditch, canal, works or other aqueduct; or (3) An act of God, including fire, earthquake, storm or similar natural phenomenon. The provisions of this section shall not be construed to impair any defense that an owner, ~~or constructor,~~ or operator of a ditch, canal, works or other aqueduct may assert in a civil action. The owners, ~~or constructors,~~ or operators have the right to enter the land across which the right-of-way extends, for the purposes of cleaning, maintaining and repairing the ditch, canal or conduit, and to occupy such width of the land along the banks of the ditch, canal or conduit as is necessary to properly do the work of cleaning, maintaining and repairing the ditch, canal or conduit with personnel and with such equipment as is commonly used, or is reasonably adapted, to that work. The right-of-way also includes the right to deposit on the banks of the ditch or canal the debris and other matter necessarily required to be taken from the ditch or canal to properly clean and maintain it, but no greater width of land along the banks of the canal or ditch than is absolutely necessary for such deposits shall be occupied by the removed debris or other matter.

SECTION 4. That Section 42-1207, Idaho Code, be, and the same is hereby amended to read as follows:

42-1207. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ditch, canal, lateral or drain or buried irrigation conduit has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling said land shall have the right at their own expense to change said ditch, canal, lateral or drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ditch, canal, lateral or drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change, his heirs, executors, administrators, successors and assigns.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the owner of the ditch, canal, lateral or drain, but the landowner, his heirs, executors, administrators, successors and assigns, shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the owner.

The written permission of the owner or operator of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before it is changed or placed in buried pipe by the landowner.

While the owner or operator of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate it on the property of another without permission, a ditch, canal, lateral or drain owner or operator shall have the right to place it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so as long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but no longer than thirty (30) days after the completion of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner, his heirs, executors, administrators, successors and assigns, shall be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the conduit owner or operator.

SECTION 5. That Section 42-1209, Idaho Code, be, and the same is hereby amended to read as follows:

42-1209. ENCROACHMENTS ON EASEMENTS AND RIGHTS-OF-WAY. Easements or rights-of-way of operated, maintained, controlled or owned by irrigation districts, Carey act operating companies, nonprofit irrigation entities, lateral ditch associations, and drainage districts are essential for the operations of such irrigation and drainage entities. Accordingly, no person or entity shall cause or permit any encroachments onto the easements or rights-of-way, including any public or private roads, utilities, fences, gates, pipelines, structures or other construction or placement of objects, without the written permission of the irrigation district, Carey act operating company, nonprofit irrigation entity, lateral ditch association, or drainage district owning, operating, maintaining, or controlling the easement or right-of-way, in order to ensure that any such encroachments will not unreasonably or materially interfere with the use and enjoyment of the easement or right-of-way. Encroachments of any kind placed in such easement or right-of-way, without such express written permission, shall be removed at the expense of the person or entity causing or permitting such encroachments, upon the request of the persons operating, maintaining, or controlling the easement or right-of-way or the owner of the easement or right-of-way, in the event that any such encroachments unreasonably or materially interfere with the use and enjoyment of the easement or right-of-way. Nothing in this section shall in any way affect the exercise of the right of eminent domain for the public purposes set forth in section 7-701, Idaho Code.

Approved March 21, 2019

CHAPTER 159
(S.B. No. 1096)

AN ACT

RELATING TO RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES; AMENDING SECTION 39-3302, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3355, IDAHO CODE, TO PROVIDE FOR AN ALTERNATIVE TO REGULAR COMPLIANCE INSPECTIONS; AND AMENDING SECTION 63-701, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-3302, Idaho Code, be, and the same is hereby amended to read as follows:

39-3302. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Accreditation" means a process of review that allows health care organizations to meet regulatory requirements and standards established by a recognized accreditation organization.

(3) "Accreditation commission" means the commission on accreditation of rehabilitation facilities (CARF), the joint commission, or another nationally recognized accreditation organization approved by the director.

(4) "Activities of daily living" means the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(35) "Administrator" means an individual, properly licensed by the bureau of occupational licensing, who is responsible for day-to-day operation of a residential care or assisted living facility.

(46) "Adult" means a person who has attained the age of eighteen (18) years.

(57) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of mentally ill, developmentally disabled, or elderly residents.

(68) "Assessment" means the conclusion reached using uniform criteria, which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. The assessment criteria shall be developed by the department and residential care or assisted living council.

(79) "Authorized provider" in this chapter means an individual who is a nurse practitioner or clinical nurse specialist or a physician assistant.

(810) "Board" means the board of health and welfare.

(911) "Chemical restraint" means a medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition.

(102) "Core issues" means abuse, neglect, exploitation, inadequate care, a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day-to-day operations of the facility, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and surveyors denied access to records, residents or facilities.

(113) "Department" means the Idaho department of health and welfare.

(124) "Director" means the director of the Idaho department of health and welfare.

(135) "Exploitation" means the misuse of a resident's funds, property, resources, identity or person for profit or advantage.

(146) "Facility" means a residential care or assisted living facility.

(157) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board, or other agency thereof.

(168) "Inadequate care" occurs when a facility fails to provide the services required to meet the terms of the negotiated service agreement or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment; or engages in violations of ~~resident's~~ residents' rights, or takes residents who have been admitted in violation of the provisions of section 39-3307, Idaho Code.

(179) "License" means a basic permit to operate a residential care or assisted living facility.

(1820) "Licensee" means the owner of a license to operate a residential care or assisted living facility under this chapter.

(1921) "Licensing agency" means the unit of the department of health and welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter.

(202) "Neglect" means failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident.

(213) "Negotiated service agreement" means the agreement reached by the resident and/or ~~their~~ the resident's representative and the facility, based on the assessment, physician's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident.

(224) "Personal assistance" means the provision by the staff of the facility of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living-;i

(b) Arranging for supportive services-;i

(c) Being aware of the resident's general whereabouts-; and

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(235) "Political subdivision" means a city or county.

(246) "Resident" means an adult who lives in a residential care or assisted living facility.

(257) "Residential care or assisted living facility" means a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more adults not related to the owner.

(268) "Room and board" means lodging and meals.

(279) "Substantial compliance" means a facility has no core issue deficiencies.

(2830) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's negotiated service agreement or other legal requirements.

(2931) "Supportive services" means the specific services that are provided to the resident in the community.

SECTION 2. That Section 39-3355, Idaho Code, be, and the same is hereby amended to read as follows:

39-3355. INSPECTIONS. (1) The licensing agency shall cause to be made such inspections and investigations to determine compliance with this chapter and applicable rules.

(2) Inspections for such purposes will be made unannounced and without prior notice at the discretion of the department and at intervals determined by the licensing agency.

(3) An inspector shall have full access and authority to examine, among other things, quality of care and service delivery, a facility's records, resident accounts, physical premises, including buildings, grounds and equipment, and any other areas necessary to determine compliance with this chapter and applicable rules.

(4) An inspector shall have authority to interview the licensee, administrator, staff and residents. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident.

(5) The licensing agency shall notify the facility, in writing, of all deficiencies and shall approve a reasonable length of time for compliance by the facility.

(6) Current lists of deficiencies, including plans of correction, shall be available to the public upon request in the individual facilities or by written request to the department.

(7) The department shall accept an accreditation survey from an accreditation commission for a residential care or assisted living facility instead of regular compliance inspections conducted under the authority of this section if all of the following conditions are met:

(a) The accreditation commission's standards meet or exceed the state requirements for licensure for residential care or assisted living facilities;

(b) The facility submits to the department a copy of its required accreditation reports to the accreditation commission in addition to the application and any other information required for renewal of a license;

(c) The inspection results are available for public inspection to the same extent that the results of an investigation or inspection conducted under this section are available for public inspection;

(d) The accreditation commission complies with the health insurance portability and accountability act and takes reasonable precautions to protect the confidentiality of personally identifiable information concerning the residents of the facility; and

(e) If the facility's accreditation report is not valid for the entire licensure period, the department may conduct a compliance inspection of the facility during the time period for which the department does not have a valid accreditation report.

(8) The department shall not conduct an onsite compliance inspection of the residential care or assisted living facility during the time the accreditation report is valid except for complaint surveys, reportable incidents, or in cases of emergencies. Accreditation does not limit the department in performing any power or duty under this chapter or inspection authorized under this section, including taking appropriate action relating to a residential care or assisted living facility, such as suspending or revoking a license, investigating an allegation of abuse, exploitation, or neglect or another complaint, or assessing an administrative penalty.

SECTION 3. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which the claimant first filed a claim on the homestead in question, a claimant

must be an owner of the homestead and on January 1 of said year a claimant must be:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code, or, if a person is not within the purview of, and is therefore not recognized as disabled by, any other entity listed in this paragraph, then by the public employee retirement system or public employee disability plan in which the person participates that may be of any state, local unit of government or other jurisdiction in the United States of America; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8) (b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding the nontaxable portion of a Roth individual retirement account distribution, as provided in 26 U.S.C. 408A;
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1) (e) of this section who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. 402(i). Documentation of medical expenses may be required by the county assessor and state tax commission in such form as the county assessor or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.

For determining income for certain married individuals living apart, the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code shall apply.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

- (a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or
- (b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or
- (c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title

in fee simple or holding a certificate of motor vehicle title together with another person, but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so as long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property was held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8) (a) or (b) of this section.

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1) year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for people with intellectual disabilities as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(146), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

CHAPTER 160
(S.B. No. 1111)

AN ACT

RELATING TO THE REVISED UNIFORM LAW ON NOTARIAL ACTS; AMENDING THE HEADING FOR CHAPTER 1, TITLE 51, IDAHO CODE; AMENDING SECTION 51-101, IDAHO CODE, TO REVISE THE SHORT TITLE; AMENDING SECTION 51-104, IDAHO CODE, TO PROVIDE THAT A NOTARIAL OFFICER MAY CERTIFY THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY; AMENDING CHAPTER 1, TITLE 51, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 51-114A, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR COMPLIANCE BY A REMOTELY LOCATED INDIVIDUAL, TO AUTHORIZE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT FOR A REMOTELY LOCATED INDIVIDUAL IN CERTAIN INSTANCES, TO PROVIDE FOR CERTIFICATION FOR A NOTARIAL ACT FOR A REMOTELY LOCATED INDIVIDUAL, TO PROVIDE FOR A SHORT FORM CERTIFICATE, TO PROVIDE THAT CERTAIN RECORDS SHALL BE RETAINED, TO PROVIDE FOR NOTIFICATION TO THE SECRETARY OF STATE, AND TO PROVIDE RULEMAKING AUTHORITY WITH CERTAIN CONSIDERATIONS; AMENDING SECTION 51-116, IDAHO CODE, TO PROVIDE FOR A CERTAIN STATEMENT REGARDING COMMUNICATION TECHNOLOGY; AMENDING SECTION 51-120, IDAHO CODE, TO PROVIDE THAT A RECORDER MAY ACCEPT A TANGIBLE COPY OF AN ELECTRONIC RECORD IN CERTAIN INSTANCES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That the Heading for Chapter 1, Title 51, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 1
REVISED UNIFORM LAW ON NOTARIAL ACTS (2018)

SECTION 2. That Section 51-101, Idaho Code, be, and the same is hereby amended to read as follows:

51-101. SHORT TITLE. This chapter shall be known and may be cited as the "Revised Uniform Law on Notarial Acts (2018)."

SECTION 3. That Section 51-104, Idaho Code, be, and the same is hereby amended to read as follows:

51-104. AUTHORITY TO PERFORM NOTARIAL ACT. (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2) A notary public may not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

SECTION 4. That Chapter 1, Title 51, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 51-114A, Idaho Code, and to read as follows:

51-114A. NOTARIAL ACT PERFORMED BY REMOTELY LOCATED INDIVIDUAL. (1) As used in this section:

(a) "Communication technology" means an electronic device or process that:

(i) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(ii) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(c) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (3) of this section.

(2) A remotely located individual may comply with the provisions of section 51-106, Idaho Code, by appearing before a notary public by means of communication technology.

(3) A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The notary public:

(i) Has personal knowledge under section 51-107(1), Idaho Code, of the identity of the individual;

(ii) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under section 51-107(2), Idaho Code, or under this section; or

(iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two (2) different types of identity proofing.

(b) The notary public is able reasonably to confirm the record before the notary public as the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

(c) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

(i) The record:

1. Is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or

2. Involves property located in the territorial jurisdiction of the United States or a transaction substantially connected with the United States; and

(ii) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(4) If a notarial act is performed under this section, the certificate of notarial act required by section 51-115, Idaho Code, and the short form certificate provided in section 51-116, Idaho Code, must indicate that the notarial act was performed using communication technology.

(5) A short form certificate provided in section 51-116, Idaho Code, for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subsection (8) (a) of this section; or

(b) Is in the form provided by section 51-116, Idaho Code, and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(6) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public, shall retain the audio-visual recording created under subsection (3) (c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. The recording must be retained for at least ten (10) years after the recording is made or as otherwise required by rule adopted under subsection (8) (d) of this section.

(7) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the secretary of state that the notary public will be performing notarial acts facilitated by communication technology and identify the technology. If the secretary of state has established standards for approval of communication technology or identity proofing under subsection (8) of this section and section 51-127, Idaho Code, the communication technology and identity proofing must conform to the standards.

(8) In addition to adopting rules under section 51-127, Idaho Code, the secretary of state shall adopt rules under this section regarding performance of a notarial act. The rules:

(a) Shall prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) Shall establish standards for communication technology and identity proofing;

(c) May establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) May establish standards and a period for the retention of an audio-visual recording created under subsection (3) (c) of this section.

(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state shall consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the national association of secretaries of state;

(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) The views of governmental officials and entities and other interested persons.

SECTION 5. That Section 51-116, Idaho Code, be, and the same is hereby amended to read as follows:

51-116. SHORT FORM CERTIFICATES. The following short form certificates of notarial acts are sufficient for the purposes indicated if completed with the information required by section 51-115(1) and (2), Idaho Code:

(1) For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)

Signature of notary public

(Stamp)

My commission expires: _____

(2) For an acknowledgment in a representative capacity:

State of _____

County of _____

This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed)

Signature of notary public

(Stamp)

My commission expires: _____

(3) For a verification on oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me
on _____ by _____
Date Name(s) of individual(s) making statement

Signature of notary public

(Stamp)

My commission expires: _____

(4) For witnessing or attesting a signature:

State of _____

County of _____

Signed (or attested) before me on _____ by _____
Date Name(s) of individual(s)

Signature of notary public

(Stamp)

My commission expires: _____

(5) For certifying a copy of a record:

State of _____

County of _____

I certify that this is a true and correct copy of a record in the possession
of _____

Dated _____

Signature of notary public

(Stamp)

My commission expires: _____

(6) If the notarial act is performed on behalf of a remotely located individual and utilizing communication technology under section 51-114A, Idaho Code, the certificates in this section shall include a statement substantially as follows: "This notarial act involved the use of communication technology."

SECTION 6. That Section 51-120, Idaho Code, be, and the same is hereby amended to read as follows:

51-120. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD -- SELECTION OF TECHNOLOGY -- ACCEPTANCE OF TANGIBLE COPY OF ELECTRONIC RECORD. (1) A notary public may select one (1) or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 51-127, Idaho Code, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

(3) A recorder shall accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

SECTION 7. This act shall be in full force and effect on and after January 1, 2020.

Approved March 21, 2019

CHAPTER 161
(S.B. No. 1112)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 18-8315, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-521, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 33-1634, IDAHO CODE, AS ENACTED BY SECTION 3, CHAPTER 16, LAWS OF 2018, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-3728, IDAHO CODE, AS ENACTED BY SECTION 3, CHAPTER 96, LAWS OF 2018, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-106, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 36-1107, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 41-232, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-117, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 50-3112, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1705, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-3004, IDAHO CODE, TO REMOVE SURPLUS VERBIAGE; AND AMENDING SECTION 67-823, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION.

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

SECTION 1. That Section 18-8315, Idaho Code, be, and the same is hereby amended to read as follows:

18-8315. COMPLIANCE WITH OPEN MEETINGS LAW. All meetings of the board shall be held in accordance with the open meetings law as provided in chapter 23, title 67~~4~~, Idaho Code.

SECTION 2. That Section 33-521, Idaho Code, be, and the same is hereby amended to read as follows:

33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of trustees of any school district newly formed within the last twelve (12) months through the consolidation of two (2) or more school districts may offer a one (1) time severance payment to a maximum of ten percent (10%) of the employees that were previously employed by the separate school districts. Such severance offers shall be made entirely at the discretion of the board of trustees, and shall not be bound by custom, seniority or contractual commitment. Employees are under no obligation to accept a severance offer. Any employee accepting a severance payment shall not be eligible for reemployment by the school district for a one (1) year period thereafter.

The severance payment shall consist of fifty-five percent (55%) of the salary-based apportionment funds allocated for the employee in the last

year, plus any applicable state paid employee benefits. Such severance shall be reduced by one-half (1/2) for any employee who is simultaneously receiving a disbursement of early retirement incentive funds, ~~pursuant to section 33-1004G, Idaho Code.~~ The state department of education shall reimburse eligible school districts for one hundred percent (100%) of such costs, upon application by the school district.

SECTION 3. That Section 33-1634, Idaho Code, as enacted by Section 3, Chapter 16, Laws of 2018, be, and the same is hereby amended to read as follows:

33-16345. CAREER TECHNICAL EDUCATION PROGRAM QUALITY AND WORKFORCE READINESS INCENTIVE PROGRAM. (1) It is the ultimate goal of the legislature that every student have access to career technical education courses and programs that lead to workforce readiness certification.

(2) The state board for career technical education shall establish and administer a quality program funding mechanism for high-quality career technical education secondary programs and program technical assistance offered in grades 9 through 12.

(a) Quality program incentive funding will be available to high-performing approved career technical education programs in the areas of business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(b) Technical assistance funding will be available to approved career technical education programs in the areas of agriculture and natural resources, business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(c) The division of career technical education will develop criteria to evaluate each program and will award funding to those programs that meet or exceed the criteria established by the division for quality program funding and technical assistance funding. Specific criteria will be developed for each type of program. Types of programs will be defined by the state board for career technical education. All eligible career technical programs will be considered for funding. Eligible programs may not be career technical schools and must meet all eligibility criteria developed by the division of career technical education. The amount of each award will be determined each award cycle by the division of career technical education and will be contingent upon the availability of appropriated funds.

(3) Workforce readiness incentive funding.

(a) Eligible career technical education pathway programs in any career technical education program area may receive workforce readiness incentive funds. Workforce readiness incentive funds will be distributed based on the number of secondary career technical concentrators who have demonstrated workforce readiness at the completion of the career technical education program.

(b) The division of career technical education will develop criteria to evaluate each program and will award funding to those programs that meet or exceed the criteria established by the division for quality program funding and technical assistance funding. Specific criteria will be developed for each type of program. Types of programs will be defined by the state board for career technical education. All eligible career technical programs will be considered for funding. Eligible programs may not be career technical schools and must meet all eligibility criteria developed by the division of career technical education. The amount of each award will be determined each award cycle by the division of ca-

reer technical education and will be contingent upon the availability of appropriated funds.

(4) The state board for career technical education may adopt rules to implement the provisions of this section.

SECTION 4. That Section 33-3728, Idaho Code, as enacted by Section 3, Chapter 96, Laws of 2018, be, and the same is hereby amended to read as follows:

33-37289. TRANSFER OF CREDITS. (1) Any student who completes the requirements for the associate of arts or associate of science degree at a postsecondary institution accredited by a regional accrediting body recognized by the state board of education will be considered as satisfying the general education requirements, as defined by the state board of education, upon transfer to a public postsecondary institution in Idaho and will not be required to complete any additional general education requirements.

(2) A student who has completed the general education framework as defined by the state board of education, without an associate of arts or associate of science degree, and transfers from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education will not be required to complete additional general education requirements at the receiving Idaho public postsecondary institution.

(3) If a student who has completed a general education course or general education courses but has not completed the entire general education framework; or has not earned an associate of arts or associate of science degree from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education; or has earned an associate of applied science degree from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education; and transfers to a public postsecondary institution, those general education course credits will be applied towards the associated general education course requirements at the receiving public postsecondary institution.

(4) Any student who completes an associate of applied science degree at a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education and meets the receiving institution's criteria for admission may pursue an interdisciplinary bachelor of applied science or a bachelor of applied technology degree focused on upper-level academic coursework at any Idaho public postsecondary institution that has such degree programs available.

(5) Receiving institutions must notify students in writing of all initial credit transfer decisions. Whenever a receiving institution makes an initial credit transfer decision that results in credits not being transferred in a manner that moves the student toward certificate or degree completion or in the manner requested by a student or applicant, the receiving institution must provide a written explanation of the credit transfer decision to the student or applicant specifying why the credits were not eligible for transfer or were not credited toward certificate or degree progress and the policies and procedures available to the student to request reconsideration of the initial credit transfer decision. Written explanations may be provided in an electronic format. Institutions shall report annually to the state board of education the number of credits that were requested to be transferred, the number of credits transferred, the number of credits that were not applied toward certificate or degree progress, including those credits that transferred as electives over the amount needed for certificate or degree progress, and such other information requested by the state board of education.

(6) No Idaho public postsecondary institution shall discriminate against any student or applicant for admission due to the number of credits that the student may be able to transfer, or has transferred, to the public college or university pursuant to this section, any other provision of law, or any rule, policy, guideline or practice of the state board of education or the public postsecondary institution.

(7) Nothing in this section shall be deemed to:

(a) Invalidate any requirement that a student earn a specified number of credits at an Idaho public college or university in order to receive a degree from the institution;

(b) Require any Idaho public postsecondary institution to grant a student a degree within a specified period of time; or

(c) Amend the provisions of section 33-2205(4), Idaho Code, or expand the rights of career technical education students or applicants with respect to the transfer of credits from one (1) institution to another.

(8) All public postsecondary institutions are responsible for working to facilitate the effective and efficient transfer of students between public Idaho public postsecondary institutions. Institutions shall publish the current curriculum equivalencies of all courses on the state board of education transfer web portal.

SECTION 5. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director or his designee shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

The director shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and proclamations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with chapter 53, title 67, Idaho Code, and rules promulgated pursuant thereto, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and rules as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resources of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.

(C) The director is hereby authorized to issue a license/tag/permit to a nonresident landowner who resides in a contiguous state for the purpose of taking one (1) animal during an emergency depredation hunt which includes the landowner's Idaho property subject to such conditions, restrictions or rules as the director may provide. The fee for this license/tag/permit shall be equal to the costs of a resident hunting license, a resident tag fee and a resident depredation permit.

(D) Unless relocation is required pursuant to subparagraph (E) herein, notwithstanding the provisions of section 36-408, Idaho Code, to the contrary, the director shall not expend any funds, or take any action, or authorize any employee or agent of the department or other person to take any action, to undertake actual transplants of bighorn sheep into areas they do not now inhabit for the purpose of augmenting existing populations until:

(i) The boards of county commissioners of the counties in which the release is proposed to take place have been given reasonable notice of the proposed release.

(ii) The affected federal and state land grazing permittees and owners or leaseholders of private land in or contiguous to the proposed release site have been given reasonable notice of the proposed release.

(iii) The president pro tempore of the senate and the speaker of the house of representatives have received from the director a plan for the forthcoming year that details, to the best of the department's ability, the proposed transplants which shall include the estimated numbers of bighorn sheep to be transplanted and a description of the areas the proposed transplant or transplants are planned for.

Upon request, the department shall grant one (1) hearing per transplant or relocation if any affected individual or entity expresses written concern within ten (10) days of notification re-

garding any transplants or relocations of bighorn sheep and shall take into consideration these concerns in approving, modifying or canceling any proposed bighorn sheep transplant or relocation. Any such hearing shall be held within thirty (30) days of the request. It is the policy of the state of Idaho that existing sheep or livestock operations in the area of any bighorn sheep transplant or relocation are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted. Prior to any transplant or relocation of bighorn sheep into areas they do not now inhabit or a transplant or relocation for the purpose of augmenting existing populations, the department shall provide for any affected federal or state land grazing permittees or owners or leaseholders of private land a written agreement signed by all federal, state and private entities responsible for the transplant or relocation stating that the existing sheep or livestock operations in the area of any such bighorn sheep transplant or relocation are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted.

(E) The Idaho department of fish and game: (1) shall develop a state management plan to maintain a viable, self-sustaining population of bighorn sheep in Idaho which shall consider as part of the plan the current federal or state domestic sheep grazing allotment(s) that currently have any bighorn sheep upon or in proximity to the allotment(s); (2) within ninety (90) days of the effective date of this act will cooperatively develop best management practices with the permittee(s) on the allotment(s). Upon commencement of the implementation of best management practices, the director shall certify that the risk of disease transmission, if any, between bighorn and domestic sheep is acceptable for the viability of the bighorn sheep. The director's certification shall continue for as long as the best management practices are implemented. The director may also certify that the risk of disease transmission, if any, between bighorn and domestic sheep is acceptable for the viability of the bighorn sheep based upon a finding that other factors exist, including but not limited to previous exposure to pathogens that make separation between bighorn and domestic sheep unnecessary.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season or to reduce the bag limit or possession limit for such species for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) (i) In order to protect property from damage by wildlife, including bear and turkey, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon that particular species of wildlife to reduce its population. The director or his designee shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director or his de-

signee; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(ii) In the event a kill permit is issued by the director or his designee, the individual or landowner with the kill permit, in conjunction with their responsibility for field dressing the animals taken, may keep one (1) animal for their personal use. In the event the director or his designee issues a subsequent kill permit for the same individual or landowner due to continued depredation, the director or his designee may authorize the individual or landowner to keep a second subsequently taken animal for their personal use.

(C) Any season closure order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefor.

(E) Prior to the opening of any special depredation hunt, the director or his designee shall be authorized to provide up to a maximum of fifty percent (50%) of the available permits for such big game to the landholder(s) of privately owned land within the hunt area or his designees. If the landholder(s) chooses to designate hunters, he must provide a written list of the names of designated individuals to the department. If the landholder(s) fails to designate licensed hunters, then the department will issue the total available permits in the manner set by rule. All hunters must have a current hunting license and shall have equal access to both public and private lands within the hunt boundaries. It shall be unlawful for any landholder(s) to receive any form of compensation from a person who obtains or uses a depredation controlled hunt permit.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, ~~which report shall be made in accordance with section 67-2509, Idaho Code.~~

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evalu-

ation of wildlife shall be submitted to the division of animal industries, department of agriculture.

11. (A) The director is authorized to enter into an agreement with an independent contractor for the purpose of providing a telephone order and credit card payment service for controlled hunt permits, licenses, tags, and permits.

(B) The contractor may collect a fee for its service in an amount to be set by contract.

(C) All moneys collected for the telephone orders of such licenses, tags, and permits shall be and remain the property of the state, and such moneys shall be directly deposited by the contractor into the state treasurer's account in accordance with the provisions of section 59-1014, Idaho Code. The contractor shall furnish a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover the amount of the telephone orders and potential refunds.

(D) The refund of moneys for unsuccessful controlled hunt permit applications and licenses, tags, and permits approved by the department may be made by the contractor crediting the applicant's or licensee's credit card account.

12. The director may define activities or facilities that primarily provide a benefit: to the department; to a person; for personal use; to a commercial enterprise; or for a commercial purpose.

SECTION 6. That Section 36-1107, Idaho Code, be, and the same is hereby amended to read as follows:

36-1107. WILD ANIMALS AND BIRDS DAMAGING PROPERTY. Other provisions of this title notwithstanding, any person may control, trap, and/or remove any wild animals or birds or may destroy the houses, dams, or other structures of furbearing animals for the purpose of protecting property from the depredations thereof as hereinafter provided.

The director may delegate any of the authority conferred by this section to any other employee of the department.

(a) Director to Authorize Removal of Wildlife Causing Damage. Except for antelope, elk, deer or moose when any other wildlife, protected by this title, is doing damage to or is destroying any property, including water rights, or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall investigate the conditions complained of. In the case of water rights, the director shall request an investigation by the director of the department of water resources of the conditions complained of. The director of the department of water resources shall request a recommendation from the local water master, if any and, upon such examination, shall certify to the director of the department of fish and game whether said wildlife, or houses, dams or other structures erected by said wildlife, is injuring or otherwise adversely impacting water rights. If it appears that the complaint is well-founded and the property of such complainant is being or is likely to be damaged or destroyed by any such wildlife protected under this title, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the property of the state and shall be turned over to the director.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.

3. Whenever deemed to be in the public interest, authorize or cause the removal, modification or destruction of any dam, house, structure or obstruction erected by any furbearing animals. The director shall have authority to enter upon all lands, both public and private, as necessary, to control, trap or remove such animals, or to so remove, modify or destroy such dam, house, structure or obstruction that is injuring or otherwise adversely impacting water rights, or to require the landowner to do so. The director shall make a reasonable effort to contact any private landowner to schedule a date and approximate time for the removal, modification or destruction. No liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such entry upon land, destruction, removal or modification.

4. Issue a permit to any bona fide owner or lessee of property that is being actually and materially damaged by furbearing animals, to trap or kill or to have trapped or killed such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant and shall designate therein the number of furbearing animals that may be trapped or killed, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker. ~~Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code.~~ The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.

(b) Control of Depredation of Black Bear, Mountain Lion, and Predators. Black bear, mountain lion, and predators may be disposed of by livestock owners, their employees, agents and animal damage control personnel when same are molesting or attacking livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so taken shall be reported to the director within ten (10) days of being taken. Livestock owners may take steps they deem necessary to protect their livestock.

(c) Control of Depredation of Wolves. Wolves may be disposed of by livestock or domestic animal owners, their employees, agents and animal damage control personnel when the same are molesting or attacking livestock or domestic animals and it shall not be necessary to obtain any permit from the department. Wolves so taken shall be reported to the director within ten (10) days of being taken. Wolves so taken shall remain the property of the state. Livestock and domestic animal owners may take all nonlethal steps they deem necessary to protect their property. A permit must be obtained from the director to control wolves not molesting or attacking livestock or domestic animals. Control is also permitted by owners, their employees and agents pursuant to the Idaho department of fish and game harvest rules. For the purposes of this subsection, "molesting" means the actions of a wolf that are annoying, disturbing or persecuting, especially with hostile intent or injurious effect, or chasing, driving, flushing, worrying, following after or on the trail of, or stalking or lying in wait for, livestock or domestic animals.

(d) Control of Depredation of Grizzly Bears. For purposes of this section, "grizzly bear" means any grizzly bear not protected by the federal endangered species act. Grizzly bears may be disposed of by livestock or domestic animal owners, their employees, agents and animal damage control personnel when the same are molesting or attacking livestock or domestic animals and it shall not be necessary to obtain any permit from the department. Grizzly bears so taken shall be reported to the director within seventy-two (72) hours, with additional reasonable time allowed if access to the site where taken is limited. Grizzly bears so taken shall remain the property of the state. Livestock and domestic animal owners may take all nonlethal steps they deem necessary to protect their property.

(e) Taking of Muskrats in Irrigation Systems Authorized. Muskrats may be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees, or those in charge of said irrigation ditches or canals.

SECTION 7. That Section 41-232, Idaho Code, be, and the same is hereby amended to read as follows:

41-232. HEARINGS IN GENERAL. (1) The director may hold a hearing which he deems necessary for any purpose within the scope of this code.

(2) The director shall hold a hearing:

(a) If required by any provision of this code; or

(b) Upon written demand for a hearing by a person aggrieved by any act, threatened act or failure of the director to act, or by any report, rule, regulation or order of the director (other than an order for the holding of a hearing, or an order on a hearing of which hearing such person had actual notice or pursuant to such order).

(3) Any such demand for a hearing shall summarize the information and grounds to be relied upon as a basis for the relief to be sought at the hearing.

(4) The director shall hold such demanded hearing within thirty (30) days after his receipt of the demand, unless postponed by mutual consent. Failure to hold the hearing shall constitute a denial of the relief sought, and shall be the equivalent of an order on hearing for the purpose of an appeal under section 41-241, Idaho Code.

(5) In any administrative proceeding of the director where a hearing is otherwise authorized or required by law, if a party with respect to whom the hearing is to be held waives the hearing in writing, or fails to plead, or to defend or prosecute, as the case may be, and that fact is made known to the director by affidavit or otherwise, the right of hearing shall be deemed to have been waived, and, any other provision of this code to the contrary notwithstanding, without holding or concluding a hearing the director may, upon satisfactory proof of service of the petition or complaint upon such a party, enter an order which shall be as lawful as to such party as if all allegations in the petition or complaint relative to or concerning such party were proved or admitted at a hearing. For good cause shown, the director may, in his discretion, set aside any order so entered, and the proceedings may continue as if no waiver or default had existed.

SECTION 8. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P. (1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park model recreational vehicle" means a recreational vehicle that is designed to provide temporary accommodations for recreational, camping or seasonal use, is built on a single chassis, was originally mounted on wheels, has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode and is certified by its manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Standard for Recreational Park Trailers, and includes park models, park trailers and recreational park trailers.

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.

(6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.

(7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality and, for the purposes of chapter 22, title 49, Idaho Code, shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(iv) For the purposes of chapters 3 and 4, title 49, Idaho Code, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this paragraph and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.

(8) "Personal delivery device" means an electrically powered device that is operated on sidewalks and crosswalks and is intended primarily to transport property; weighs less than eighty (80) pounds, excluding cargo; has a maximum speed of ten (10) miles per hour; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person. A personal delivery device shall not be defined as a vehicle or motor vehicle in any section of the law, unless expressly so stated.

(9) "Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this subsection, the term "agent" means a person charged by the entity with the responsibility of navigating and operating the personal delivery device. The term "personal delivery device operator" does not include an entity or person who requests the services of a personal delivery device for the purpose of transporting property or an entity, nor does it include a person who merely arranges for and dispatches the requested services of a personal delivery device.

(10) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(11) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

(12) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

(13) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the

towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(14) "Possessory lienholder" means any person claiming a lien, which lien claimed to have accrued on a basis of services rendered to the vehicle that is the subject of the lien.

(15) "Preceding year" means, for the purposes of section 49-4354, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(16) "Pressure regulator valve" means a device or system that governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(17) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealership, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times. The books, records and files necessary to conduct the business of the dealership must be kept or reproduced electronically at the dealership's licensed location(s). A dealership keeping its physical books, records and files at an off-site location must notify the department in writing of such location at least thirty (30) days in advance of moving such books, records and files off site. Physical books, records and files must be made available to the department upon request within three (3) business days of such request. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

(18) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(19) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(20) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.

(21) "Proper authority" means a public highway agency.

(22) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency that has jurisdiction over public highway systems and public rights-of-way.

(23) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(24) "Public road jurisdiction" means a public highway agency.

(25) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 9. That Section 50-3112, Idaho Code, be, and the same is hereby amended to read as follows:

50-3112. NOTICE AND CONDUCT OF ELECTION. (1) Any election pursuant to this chapter shall be a nonpartisan election, and in regard to election dates, shall be held in compliance with section 34-106, Idaho Code, or section 50-42905, Idaho Code. Except as otherwise specifically set forth in this section, the district board shall cause the election to be held and conducted in the same manner prescribed by law for the holding of general elections in this state, including chapter 14, title 34, Idaho Code, and shall call the election by posting notices in three (3) public places within the boundaries of the district not less than thirty (30) days before the election. Notice shall also be published twice, the first time not less than twelve (12) days prior to the election and the second time not less than five (5) days prior to the election, in a newspaper of general circulation in each county or city in which the proposed district is located. A copy of such notice shall also be mailed to each district resident and each owner of real property in the district if known or such owner's agent if known, addressed to such person at his or her post office address if known or, if unknown, to a post office in the county or city where the district is located. Ownership of real property shall be determined as of the date of the adoption of the resolution ordering the hearing. The notice shall state:

(a) The place of holding the election;

(b) Subject to section 34-1409, Idaho Code, the hours during the day in which the polls will be open;

(c) If the election is a bond election, whether the bonds are general obligation bonds or revenue bonds, the total principal amount of bonds to be authorized, whether the bonds will be issued in series, the maximum rate of interest to be paid on the bonds and the maximum term of the bonds, not exceeding thirty (30) years;

(d) If the election is an election to change or eliminate an existing tax, the maximum tax amount to be imposed as a result of the change or elimination;

(e) The purposes for which property taxes levied and revenues raised will be used, including a description of the community infrastructure to be financed with tax revenues, district revenues or bond proceeds;

(f) That the imposition of property taxes will result in a lien for the payment thereof on real property within the district; and

(g) That a general plan is on file with the county clerk of each county in which the district is located.

(2) The district board shall determine the date of the election and the polling place or places for the election. The district board may establish, change, and consolidate election precincts within the district, as it deems necessary and appropriate, and shall define precinct boundaries.

(3) Subject to sections 50-3102(10) and 50-3102(13), Idaho Code, the current property rolls for the district and current voter lists in effect at the time that the election has begun shall be used to determine the qualified electors. If the district includes land lying partly in and partly out

of any precinct, the voter lists may contain the names of all electors in the precinct, and the precinct boards at those precincts shall require that a prospective elector execute an affidavit stating that the elector is also a qualified elector.

(4) If the district is to be located within two (2) or more counties and/or cities, the election shall be held on the same day in each jurisdiction.

(5) The ballot material provided to each voter shall include:

(a) For an election concerning the issuance of bonds, an impartial description of the bonds to be issued and an impartial description of the property taxes to be imposed; the method of apportionment, collection and enforcement and other details sufficient to enable each qualified elector to reasonably estimate the amount of tax he or she will be obligated to pay; and a statement that the issuance of the bonds and the imposition of property taxes is for the provision of certain, but not necessarily all, community infrastructure that may be needed or desirable within the district, and that other taxes or assessments by other governmental entities may be presented for approval by qualified electors; and

(b) For an election to change an existing maximum tax or eliminate an existing tax, an impartial description of the change or elimination.

(6) Within ten (10) days after an election, the district board shall meet and canvass the returns, and declare the results thereof. At least a two-thirds (2/3) majority of the votes cast at the election shall be required for issuing bonds or changing an existing tax. The canvass may be continued for an additional period not to exceed thirty (30) days at the election of the district board for the purpose of completing the canvass. Failure of a required majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election. The canvass of any general obligation bond election shall be filed and recorded in each county in which the district is located.

(7) In any election held pursuant to this chapter, every voter may vote at any election held pursuant to this chapter, but shall be entitled to cast votes, as follows: (i) each resident qualified elector shall be entitled to one (1) vote; and (ii) each owner qualified elector shall be entitled to one (1) vote. An owner qualified elector shall not be entitled to an additional vote as a result of also being a resident of the district. When record title is held in more than one (1) name, the owners shall file with the clerk of the district at or prior to the election a designation in writing, of which one of the owners shall be deemed the owner for purposes of voting.

(8) In conducting an election, the polling official may require evidence of ownership of property and designation of the power to exercise the vote of any owner consistent with the provisions of this section and section 50-3102(10), Idaho Code.

SECTION 10. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

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

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

(3) "Compounding" means the practice in which a pharmacist, a prescriber, or, in the case of an outsourcing facility, a person under the supervision of a pharmacist, combines, mixes or alters ingredients of a drug to create a medication tailored to the needs of an individual patient.

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

- (a) Name and strength and description of the drug;
- (b) Route of administration, dosage, dosage form, continuity of therapy and refill information;
- (c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;
- (d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the drug or device as was intended by the prescriber, and the action required if they occur;
- (e) Techniques for self-monitoring drug therapy; and
- (f) Action to be taken in the event of a missed dose.

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

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

- (a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;
- (b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;
- (c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(7) "Dispense" or "dispensing" means the preparation and delivery of a drug pursuant to a lawful prescription drug order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription.

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

(9) "Drug" means:

- (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;
- (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;
- (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animal; and
- (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(10) "Drug outlet" means a resident or nonresident pharmacy, business entity or other facility where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

(11) "Institutional drug order" means a prescription drug order issued in the unique form and manner permitted for a patient or resident of an institutional facility or as permitted for other purposes as defined in rule. Unless specifically differentiated, state law applicable to a prescription drug order is also applicable to an institutional drug order.

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

(13) "Internship" means a practical experience program under the supervision of a preceptor.

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

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

(16) "Limited service outlet" means a resident or nonresident pharmacy, facility or business entity that is subject to registration by the board, pursuant to section 54-1729, Idaho Code, and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices as may be further defined by board rule but is not a retail pharmacy, institutional facility, manufacturer, wholesaler, nonresident central drug outlet or mail service pharmacy.

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

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

(a) By a pharmacist or practitioner as an incident to his administering, dispensing or, as authorized by board rule, distributing of a drug in the course of his professional practice; or

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

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

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

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

(22) "Off-site pharmacy services" means services provided by a central drug outlet or an off-site pharmacist or technician. Services may include, but are not limited to: processing a request from another pharmacy to fill, refill or dispense a prescription drug order; performance of processing

functions; or providing cognitive or pharmaceutical case services. Each function may be performed by the same or different persons and at the same or different locations.

(23) "Outsourcing facility" means a pharmacy or facility that is registered by the United States food and drug administration pursuant to 21 U.S.C. 353b and either registered or endorsed by the board.

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

(25) "Person in charge" or "PIC" means a pharmacist or, in the case of a prescriber drug outlet, a prescriber whose qualifications, responsibilities and reporting requirements are defined in rule.

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

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

(28) "Pharmacist intern" means a person who is enrolled in or who has completed a course of study at an accredited school or college of pharmacy and is registered with the board as a pharmacist intern prior to commencement of an internship program.

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

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

(31) "Preceptor" means a pharmacist or other health professional licensed and in good standing who supervises the internship training of a registered pharmacist intern.

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

(33) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer drugs in the course of professional practice.

(34) "Prescriber drug outlet" means a drug outlet in which prescription drugs or devices are dispensed directly to patients under the supervision of a prescriber, except where delivery is accomplished only through on-site administration or the provision of drug samples, patient assistance program drugs, or investigational drugs as permitted in chapter 934, title 39, Idaho Code.

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

(a) "Caution: Federal law prohibits dispensing without a prescription"; or

(b) "Rx Only"; or

(c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

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

(36) "Prescription drug order" means a valid order of a prescriber for a drug or device for an ultimate user of the drug or device.

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

(a) Evaluation of the prescription drug order for:

- (i) Known allergies;
- (ii) Rational therapy contraindications;
- (iii) Reasonable dose and route of administration; and
- (iv) Reasonable directions for use.

(b) Evaluation of the prescription drug order for duplication of therapy.

(c) Evaluation of the prescription drug order for interactions:

- (i) Drug-drug;
- (ii) Drug-food; and
- (iii) Drug-disease.

(d) Evaluation of the prescription drug order for proper utilization:

- (i) Over- or under-utilization; and
- (ii) Abuse/misuse.

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

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

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

(40) "Ultimate user" means a person who lawfully possesses a drug for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(41) "Veterinary drug outlet" means a prescriber drug outlet that dispenses drugs or devices intended for animal patients.

(42) "Wholesaler" means a person who in the usual course of business lawfully distributes drugs or devices in or into Idaho to persons other than the ultimate user.

SECTION 11. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means, for taxable years beginning on any day of 2017, the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the twenty-first day of December 2017, except that Internal Revenue Code sections 965 and 213 are applied as in effect on December 31, 2017; and Internal Revenue Code sections 108, 163, 168(e), 168(i), 179D, 179E, 181, 199, 222 and 451 are applied as in effect on February 9, 2018. ~~or after the first day of January~~

(b) The term "Internal Revenue Code" means, for taxable years beginning on or after the first day of January 2018, the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2018.

(c) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.

(d) Notwithstanding subsection (c) of this section, marriages recognized and permitted by the United States supreme court and the ninth circuit court of appeals shall also be recognized for purposes of the Idaho income tax act.

SECTION 12. That Section 67-823, Idaho Code, be, and the same is hereby amended to read as follows:

67-823. COORDINATION OF POLICY AND PROGRAMS RELATED TO SCIENCE, TECHNOLOGY, ENGINEERING AND MATH EDUCATION IN IDAHO. (1) There is hereby created in the office of the governor the "Science, Technology, Engineering and Math (STEM) Action Center" and the STEM action center advisory board. The administrator of the STEM action center shall be the official in the state designated to coordinate and oversee implementation of STEM programs; to promote STEM through best practices in education to ensure connection with industry and Idaho's long-term economic prosperity; to produce an Idaho STEM-competitive workforce to offer better access to competitive employment opportunities; and to drive student experience, engagement and industry alignment by identifying and implementing public and higher education STEM best practices to transform workforce development.

(2) The STEM action center advisory board shall consist of the following nine (9) members:

- (a) The director of the department of commerce, or his designee;
- (b) The director of the department of labor, or his designee;
- (c) One (1) member of the state board of education;
- (d) The superintendent of public instruction, or her designee; and
- (e) Five (5) members appointed by the governor, who shall serve at the pleasure of the governor for terms of three (3) years, and who shall be residents of the state and represent manufacturing or STEM-related industries. The board's chairman will be elected annually by the members of the board.

(3) The terms of the first board shall be staggered with three (3) appointments expiring July 1, 2018; three (3) appointments expiring July 1, 2019; and three (3) appointments expiring July 1, 2020. Thereafter, the term of office for each member shall be three (3) years.

(4) A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(5) The duties of the STEM action center shall include:

- (a) Coordinate all state departments and divisions on STEM-related activities;
- (b) Perform industry needs and education process foci on industry career talent, gap analysis and needs assessment to lead future STEM teacher professional development activities and goals;
- (c) Align public education STEM activities with higher education STEM activities;
- (d) Identify and coordinate best practices among public education and higher education;
- (e) Strategically engage industry, business and public or government entities to cooperate with the STEM action center and focus outcomes and goals on workforce needs and opportunities;
- (f) Support high-quality professional development focused on career readiness and talent development and provide other assistance for educators and students;
- (g) Work cooperatively with the Idaho department of education and the Idaho state board of education to define and implement pilot programs and select schools to:
 - (i) Further STEM education;
 - (ii) Ensure that best practices are implemented; and

- (iii) Integrate research and document results of that research;
and
- (h) Engage private entities to provide additional funding and/or in-kind employee time for STEM activities in schools supporting industry career readiness in addition to what is currently provided by private entities.
- (6) The duties and oversight of the STEM action center shall not interfere or conflict with the duties and oversight of the state board of education.
- (7) As funding allows, the administrator of the STEM action center shall:
 - (a) Support high-quality professional development for educators regarding STEM education;
 - (b) Ensure that the STEM action center acts as a research and development center for tools and best practice in STEM education coordination and development;
 - (c) Review and acquire STEM education-related instructional materials and products for:
 - (i) Educator high-quality professional development;
 - (ii) Assessment, data collection, analysis and reporting; and
 - (iii) Public school instruction; and
 - (d) Facilitate participation in interscholastic STEM-related competitions, fairs, expositions, camps and STEM education student programs;
 - (e) Engage private industry in the development and maintenance of the STEM action center and STEM action center projects;
 - (f) Use resources to bring the latest STEM content, 21st century skills and hands-on STEM education resources into public education classroom schools;
 - (g) Annually identify at least five (5) best practice innovations used in Idaho schools that have resulted in growth in interest and performance in STEM by students and teachers involved in pilot programs, math academies and STEM projects;
 - (h) Identify best practices being used outside the state and, as appropriate, develop and implement selected practices through pilot programs;
 - (i) As appropriate, join and participate in a national STEM network and collaborate with neighboring states in STEM program development;
 - (j) Identify performance changes linked to use of the best practices;
 - (k) Support best methods of high-quality professional development for STEM education in kindergarten through grade 12, including methods of high-quality professional development pilot programs that reduce cost and increase effectiveness, implement practices that support industry career readiness and talent development, and help educators learn how to most effectively implement STEM best practices, 21st century skills and STEM resources in classrooms;
 - (l) Support targeted high-quality professional development for improved instruction in K-12 STEM education, including:
 - (i) Improved instructional materials and resources that are dynamic and engaging for students;
 - (ii) Targeted instruction for students who traditionally avoid enrolling in STEM courses;
 - (iii) Introduction of engaging engineering and other STEM programs;
 - (iv) Use of applied instruction; and
 - (v) Introduction of other research-based methods that support student achievement in STEM areas; and
 - (m) Provide an Idaho best practices STEM resource database, including best practices from public education, higher education, informal STEM partners and other STEM-related entities.

(8) The administrator shall track and compare the growth of students participating in a STEM action center program to all other similarly situated students in the state, in the following STEM-related activities, at the beginning and end of each year:

- (a) Public education high school graduation rates;
- (b) The number of students taking STEM courses at an institution of public higher education;
- (c) The number of students who graduate from an Idaho public school and begin a postsecondary education program; and
- (d) The number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(9) The STEM action center may:

- (a) Enter into contracts for the purposes of this section; and
- (b) Apply for, receive and disburse funds, contributions or grants from any source for the purposes set forth in this section.

(10) The administrator shall report the progress of the STEM action center, including the information described in subsection (5) of this section, to the following groups once each year:

- (a) The house and senate education committees;
- (b) The governor's office;
- (c) The joint finance-appropriations committee; and
- (d) The state board of education.

(11) The report described in subsection (10) of this section shall include information that demonstrates the effectiveness of the program, including:

- (a) The number of educators receiving high-quality STEM professional development;
- (b) The number of students receiving services from the STEM action center and the number of students participating in STEM camps, academies, pilot programs and classroom STEM activities;
- (c) A report on the STEM action center's fulfillment of its duties; and
- (d) Student performance of students participating in a STEM action center program.

Approved March 21, 2019

CHAPTER 162
(S.B. No. 1117)

AN ACT

RELATING TO MALICIOUS HARASSMENT; AMENDING SECTION 18-7907, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONDUCT FOR A PETITION FOR A PROTECTION ORDER, TO PROVIDE FOR A VERIFIED PETITION, TO PROVIDE THAT CERTAIN EVIDENCE MAY BE ADMISSIBLE, TO REVISE A PROVISION REGARDING HEARINGS FOR A PROTECTION ORDER, TO REVISE PROVISIONS REGARDING ISSUANCE OF A PROTECTION ORDER, TO PROVIDE FOR THE IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM, TO REVISE A PROVISION REGARDING THE DURATION OF A PROTECTION ORDER, TO REMOVE A DEFINITION, TO REMOVE A PROVISION REGARDING HOW CERTAIN HEARINGS ARE CONDUCTED, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-7908, IDAHO CODE, TO PROVIDE FOR A VERIFIED PETITION, TO REVISE PROVISIONS REGARDING GRANTING OF AN EX PARTE TEMPORARY PROTECTION ORDER, AND TO REVISE A PROVISION REGARDING THE DURATION OF AN EX PARTE TEMPORARY PROTECTION ORDER.

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

SECTION 1. That Section 18-7907, Idaho Code, be, and the same is hereby amended to read as follows:

18-7907. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases where a person intentionally engages in the following conduct constitutes malicious harassment as described in section 18-7902, Idaho Code, stalking in any degree as described in section 18-7905 or 18-7906, Idaho Code, or telephone harassment as described in section 18-6710, Idaho Code:

(a) Stalks, in any degree, as described in sections 18-7905 and 18-7906, Idaho Code;

(b) Telephones another with the intent to terrify, threaten, or intimidate such other person and addresses to such other person any threat to inflict injury or physical harm to the person addressed or any member of his family and engages in such conduct with any device that provides transmission of messages, signals, facsimiles, video images, or other communication by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection between persons who are physically separated from each other; or

(c) Based upon another person's race, color, religion, ancestry, or national origin, intimidates or harasses another person or causes, or threatens to cause, physical injury to another person or damage to any real or personal property of another person.

(2) A person may seek relief from such conduct for himself, his children or his ward by filing a verified petition for a protection order based ~~on a sworn affidavit~~ with the magistrates division of the district court, alleging specific facts that a person for whom protection is sought was the victim of such conduct within the ninety (90) days immediately preceding the filing of the petition and that such conduct is likely to occur in the future ~~thereby causing irreparable injury~~. Evidence of such conduct occurring prior to such ninety (90) day period ~~shall~~ may be admissible to show that conduct committed within the ninety (90) day period is part of a course or pattern of conduct ~~constituting malicious harassment, stalking or telephone harassment, as described in subsection (1) of this section and may be admissible~~ as otherwise permitted in accordance with court rule and decisional law.

(3) Upon the filing of a verified petition ~~based upon a sworn affidavit~~ for a protection order, the court shall hold a hearing within fourteen (14)

days to determine whether the relief sought shall be granted unless the court determines that the petition fails to state sufficient facts to warrant relief authorized by this section. If either party is represented by counsel at such hearing, the court shall grant a request for a continuance of the proceedings so that counsel may be obtained by the other party. Such order may require either the petitioner or respondent, or both, to pay for costs, including reasonable attorney's fees.

(4) Upon a showing by a preponderance of the evidence that a person for whom protection is sought in the petition was the victim of conduct committed by the respondent that constitutes ~~malicious harassment~~ conduct as described in section 18-7902, Idaho Code, stalking in any degree as described in section 18-7905 or 18-7906, Idaho Code, or telephone harassment as described in section 18-6710, Idaho Code subsection (1) of this section, within ninety (90) days immediately preceding the filing of the petition, and that such conduct is likely to occur in the future ~~thereby causing irreparable injury~~ to such person, the court may issue a protection order for a period ~~not to exceed one (1) year~~. Such protection order may:

(a) Direct the respondent to refrain from conduct ~~that constitutes malicious harassment as described in section 18-7902, Idaho Code, stalking in any degree as described in section 18-7905 or 18-7906, Idaho Code, or telephone harassment as described in section 18-6710, Idaho Code subsection (1) of this section~~;

(b) Order the respondent to refrain from contacting the petitioner or any other person for whom the petition sought protection; and

(c) Grant such other relief and impose such other restrictions as the court deems proper, that may include a requirement that the respondent not knowingly remain within a certain distance of the protected person, which distance restriction may not exceed one thousand five hundred (1,500) feet.

(5) The petition and the court's protection order shall be served on the respondent in the manner provided in section 39-6310, Idaho Code.

(6) (a) Notice of a protection order shall be forwarded by the clerk of the court, on or before the next judicial day, to the appropriate law enforcement agency.

(b) Upon receipt of such notice, the law enforcement agency shall forthwith enter the order into the Idaho ~~law enforcement telecommunications~~ public safety and security information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the Idaho ~~law enforcement telecommunications~~ public safety and security information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(c) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident may be informed of the existence of such protection order.

(7) ~~Following a hearing, and for good cause shown, the court's Any relief granted by a protection order, other than a judgment for costs, may be renewed in increments shall be for a fixed period not to exceed one (1) year or may be modified or rescinded at any time if the court finds it appropriate to do so; provided that a protection order obtained pursuant to this section may, upon motion and upon good cause shown, be renewed, modified, or terminated by further order of the court with notice to all parties and after a hearing or written stipulation filed with the court.~~

(8) Whenever a protection order, or an ex parte temporary protection order issued pursuant to this chapter, is granted and the respondent or person to be restrained was served a copy of the order in the manner provided in section 39-6310, Idaho Code, a violation of the provisions of the order shall be a misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars (\$5,000). A peace officer may ar-

rest without a warrant and take into custody a person who the peace officer has probable cause to believe has violated such order.

(9) A petition shall be filed in the county of the respondent's residence, the petitioner's residence or where the petitioner is temporarily residing.

(10) A person may file a single verified petition seeking relief pursuant to this chapter and section 39-6304, Idaho Code. Such petition shall separately set forth the matters pertaining to each such provision of law. All procedural and substantive requirements governing petitions for domestic violence protection orders under chapter 63, title 39, Idaho Code, shall apply with respect to the issuance of such domestic violence protection orders.

(11) As used in this section:

~~(a) "Contact" means any actual physical contact; contact or attempted contact, directly or indirectly, by telephone, pager, e-mail, facsimile or other oral, written or electronic means of communication; and~~

~~(b) "Irreparable injury" includes, but is not limited to, situations in which the respondent has or is likely to threaten or commit bodily injury or has or is likely to engage in acts constituting malicious harassment as described in section 18-7902, Idaho Code, stalking in any degree as described in section 18-7905 or 18-7906, Idaho Code, or telephone harassment as described in section 18-6710, Idaho Code, against any person for whom protection is sought in the petition.~~

~~(12) Any hearing conducted pursuant to the provisions of this section may be conducted by telephone or other electronic means in accordance with any procedures authorized by the Idaho supreme court.~~

SECTION 2. That Section 18-7908, Idaho Code, be, and the same is hereby amended to read as follows:

18-7908. EX PARTE TEMPORARY PROTECTION ORDER. (1) Where a verified petition for a protection order under this chapter alleges that irreparable injury could result from seeks an ex parte temporary protection order, such an ex parte temporary protection order may be granted to the petitioner if the court finds that present harm could result if an order is not immediately issued without prior notice to the respondent and that the respondent has intentionally engaged in the conduct that constitutes malicious harassment as described in section 18-7902(1), Idaho Code, stalking in any degree as described in section 18-7905 or 18-7906, Idaho Code, or telephone harassment as described in section 18-6710, Idaho Code, if an order is not immediately issued without prior notice to the respondent.

(2) The court may grant an ex parte temporary protection order based upon the affidavit verified petition submitted or and set the matter for a full hearing under section 18-7907, Idaho Code. If the court does not grant an ex parte temporary protection order based upon the petition, the court may hold an ex parte hearing on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order and set the matter for a full hearing under section 18-7907, Idaho Code, dismiss the verified petition, or deny the ex parte temporary protection order pending and set the matter for a full hearing under section 18-7907, Idaho Code. An ex parte temporary protection order may grant the same relief as specified in section 18-7907(4), Idaho Code.

(23) An ex parte hearing to consider the issuance of an ex parte temporary protection order may be conducted by telephone or other electronic means in accordance with any procedures authorized by the Idaho supreme court.

(34) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days, and a but may be reissued for good cause shown. A full hearing, as provided in this chapter, shall be set

for not later than fourteen (14) days from the issuance of the ex parte temporary protection order. ~~An ex parte temporary protection order may, following a hearing and for good cause shown, be reissued for a period not to exceed fourteen (14) days.~~ Motions seeking an order shortening the time period must be served upon the petitioner at least two (2) days prior to the hearing on the motion.

(45) Except as otherwise provided in this section, the provisions of section 18-7907, Idaho Code, are applicable to a petition for protective order seeking an ex parte temporary protection order and to any ex parte temporary restraining order issued pursuant to this section.

Approved March 21, 2019

CHAPTER 163
(S.B. No. 1125)

AN ACT

RELATING TO WAREHOUSES; AMENDING SECTION 69-223, IDAHO CODE, TO PROVIDE FOR ELECTRONIC NEGOTIABLE WAREHOUSE RECEIPTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 69-223, Idaho Code, be, and the same is hereby amended to read as follows:

69-223. NEGOTIABLE WAREHOUSE RECEIPTS FOR COMMODITIES STORED -- CONTENTS -- CONDITIONS -- PENALTIES. Every negotiable warehouse receipt issued for agricultural commodities stored in a warehouse licensed under the provisions of this chapter shall be issued in accordance with, but not limited to, the following:

(1) Every negotiable warehouse receipt issued for agricultural commodities stored in a warehouse licensed under the provisions of this chapter shall embody within its written or printed terms:

(a) All the requirements of a negotiable warehouse receipt under the Uniform Commercial Code--Documents of Title.

(b) A description of the agricultural commodities received, showing the quantity thereof, or, in case of agricultural commodities customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages.

(c) The grade or other class of the agricultural commodities received and the standard or description in accordance with which such classification has been made: provided, that such grade or other class shall be stated according to the official standards of the state applicable to such agricultural commodities as the same may be fixed and promulgated under authority of law; provided further that until such official standards of the state for any agricultural commodity or commodities have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard; provided, that unless otherwise required by law, when requested by the depositor of other than fungible agricultural commodities, a receipt omitting compliance with this subdivision may be issued if it has plainly and conspicuously embodied in its written or printed terms a provision that such negotiable warehouse receipt is not graded.

(d) A statement that the negotiable warehouse receipt is issued subject to the provisions of this chapter and the rules prescribed hereunder.

(e) Such other terms and conditions within the limitations of this chapter as may be required by the department.

(f) All negotiable warehouse receipts issued under the provisions of this chapter, shall be:

(i) Upon forms prepared and supplied by the department and issued upon requisition of the warehouseman at a reasonable cost; or
(ii) In electronic form, through a system approved by the United States department of agriculture, accessible by the Idaho state department of agriculture, and all costs of implementation and other related costs shall be borne by the public warehouse, warehouse, warehouseman, or commodity dealer. Such electronic negotiable warehouse receipts shall have the same validity and enforceability as those in nonelectronic form and the terms "written" and "printed," and derivatives thereof, when used in relation to negotiable warehouse receipts, shall include such receipts created or displayed electronically. The department is authorized to promulgate rules necessary for the implementation and operation of such electronic system.

(2) Any warehouseman, agent, employee or manager of a public warehouse licensed under the provisions of this chapter who shall remove or allow to be removed any commodities from the facility on which the negotiable warehouse receipt was issued, except to preserve the same from fire or other damage, or except when an emergency storage situation exists as determined by the director, without the return and cancellation of any and all outstanding negotiable warehouse receipts that may have been issued to represent such commodities shall be guilty of a felony and be punished by imprisonment in the state prison not to exceed ten (10) years, or by a fine of not more than ten thousand dollars (\$10,000), or by both.

Approved March 21, 2019

CHAPTER 164
(S.B. No. 1127)

AN ACT

RELATING TO THE INTERSTATE AGREEMENT ON DETAINERS; AMENDING SECTION 19-5007, IDAHO CODE, TO REVISE A PROVISION REGARDING THE ADMINISTRATOR OF THE AGREEMENT ON DETAINERS.

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

SECTION 1. That Section 19-5007, Idaho Code, be, and the same is hereby amended to read as follows:

19-5007. ADMINISTRATION. The director of correction attorney general, or his designee, shall serve as central the administrator of, and information agent for, the agreement on detainers.

Approved March 21, 2019

CHAPTER 165
(S.B. No. 1135)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission for the Blind and Visually Impaired the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$823,900	\$80,200	\$27,900	\$599,200	\$1,531,200
Randolph Sheppard					
Fund		27,600		100,100	127,700
Rehabilitation Revenue and Refunds					
Fund		34,300		13,000	47,300
Miscellaneous Revenue					
Fund		28,100		56,300	84,400
Adaptive Aids and Appliances					
Fund	20,800	62,900			83,700
Federal Grant					
Fund	<u>2,170,700</u>	<u>605,000</u>	<u>0</u>	<u>470,300</u>	<u>3,246,000</u>
TOTAL	\$3,015,400	\$838,100	\$27,900	\$1,238,900	\$5,120,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty-one and twelve-hundredths (41.12) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 2019

CHAPTER 166
(S.B. No. 1136)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of Drug Policy the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$277,400	\$57,200		\$334,600
Miscellaneous Revenue				
Fund		24,500		24,500
Federal Grant				
Fund	<u>270,600</u>	<u>372,800</u>	<u>\$3,809,800</u>	<u>4,453,200</u>
TOTAL	\$548,000	\$454,500	\$3,809,800	\$4,812,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than six (6.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 2019

CHAPTER 167
(S.B. No. 1145)

AN ACT

RELATING TO THE APPROPRIATION TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2020; AND EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2019, through June 30, 2020:

FOR:

Personnel Costs	\$27,922,000
Operating Expenditures	3,793,700
Capital Outlay	<u>815,000</u>
TOTAL	\$32,530,700

SECTION 2. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. The Agricultural Research and Cooperative Extension Service is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated to it for the period July 1, 2019, through June 30, 2020. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 21, 2019

CHAPTER 168
(S.B. No. 1165)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS; PROVIDING REAPPROPRIATION AUTHORITY; DIRECTING AN ADJUSTMENT FOR STUDENT TUITION AND FEES FOR FISCAL YEAR 2020; DIRECTING AN ADJUSTMENT FOR STUDENT TUITION AND FEES FOR FISCAL YEAR 2019; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WIMU VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$603,400	\$1,456,500			\$2,059,900
Restricted					
Fund	<u>0</u>	<u>0</u>		<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$603,400	\$1,456,500		\$100,000	\$2,159,900
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$1,844,400	\$447,800		\$4,541,800	\$6,834,000
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$260,600			\$1,410,000	\$1,670,600
Unrestricted					
Fund	<u>197,700</u>	<u>\$25,800</u>	<u>\$5,500</u>	<u>0</u>	<u>229,000</u>
TOTAL	\$458,300	\$25,800	\$5,500	\$1,410,000	\$1,899,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$2,049,800	\$2,049,800
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$1,721,000	\$321,600	\$7,000	\$3,750,000	\$5,799,600
VI. BOISE INTERNAL MEDICINE:					
FROM:					
General					
Fund				\$845,000	\$845,000
VII. PSYCHIATRY EDUCATION:					
FROM:					
General					
Fund				\$397,800	\$397,800
VIII. EASTERN IDAHO MED RESIDENCIES:					
FROM:					
General					
Fund				\$1,005,000	\$1,005,000
IX. BINGHAM INTERNAL MEDICINE:					
FROM:					
General					
Fund				\$635,000	\$635,000
GRAND TOTAL	\$4,627,100	\$2,251,700	\$12,500	\$14,734,400	\$21,625,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs specified in this section is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

WIMU Veterinary Education	6.38
WWAMI Medical Education	13.72
Idaho Dental Education Program	3.25
University of Utah Medical Education	0.00
Family Medicine Residencies	13.30
Boise Internal Medicine	0.00
Psychiatry Education	0.00
Eastern Idaho Medical Residencies	0.00
Bingham Internal Medicine	0.00

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. The State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs are hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for dedicated fund moneys appropriated for the period July 1, 2019, through June 30, 2020. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs any unexpended and unencumbered balances appropriated or reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs from dedicated funds for fiscal year 2019 to be used for nonrecurring expenditures for the period July 1, 2019, through June 30, 2020.

SECTION 5. STUDENT TUITION AND FEES FOR FISCAL YEAR 2020. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Division of Financial Management may approve the expenditure of dedicated funds pursuant to the noncognizable process for student tuition and fees during fiscal year 2020. Each of the programs' budget requests for fiscal year 2021 shall reflect all adjustments so approved by the Division of Financial Management.

SECTION 6. STUDENT TUITION AND FEES FOR FISCAL YEAR 2019. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Division of Financial Management may approve the expenditure of dedicated funds pursuant to the noncognizable process for student tuition and fees during fiscal year 2019. Each of the programs' budget requests for fiscal year 2020 shall reflect all adjustments so approved by the Division of Financial Management.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after passage and approval.

Approved March 21, 2019

CHAPTER 169
(S.B. No. 1167)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON AGING FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission on Aging the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$534,000	\$92,700	\$5,700	\$3,977,100	\$4,609,500
Federal Grant					
Fund	<u>709,000</u>	<u>295,600</u>	<u>0</u>	<u>8,021,900</u>	<u>9,026,500</u>
TOTAL	\$1,243,000	\$388,300	\$5,700	\$11,999,000	\$13,636,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than thirteen (13.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 2019

CHAPTER 170
(S.B. No. 1168)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2020; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Division of Financial Management the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$1,770,500	\$193,100	\$1,963,600
Miscellaneous Revenue			
Fund	<u>40,200</u>	<u>32,100</u>	<u>72,300</u>
TOTAL	\$1,810,700	\$225,200	\$2,035,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than fifteen (15.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 2019

CHAPTER 171
(S.B. No. 1169)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING CONTINUOUS APPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery the following amounts to be expended according to the designated expense classes from the State Lottery Fund for the period July 1, 2019, through June 30, 2020:

FOR:		
Personnel Costs		\$3,458,100
Operating Expenditures		2,579,500
Capital Outlay		<u>121,500</u>
TOTAL		\$6,159,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-five (45.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. Amounts necessary to pay prizes, retailer commissions, advertising and promotional costs, and gaming supplier vendor fees based on sales shall be continuously appropriated to the Idaho State Lottery in accordance with the provisions of Section 67-7428, Idaho Code.

Approved March 21, 2019

CHAPTER 172
(S.B. No. 1172)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR PREMIUM HOLIDAYS; AND PROVIDING GUIDANCE FOR THE IMPLEMENTATION OF EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Human Resources the following amounts to be expended according to the designated expense classes from the Division of Human Resources Fund for the period July 1, 2019, through June 30, 2020:

FOR:

Personnel Costs	\$1,593,000
Operating Expenditures	782,000
Capital Outlay	<u>14,500</u>
TOTAL	\$2,389,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than sixteen (16.00) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. PREMIUM HOLIDAYS. The administrator of the Division of Human Resources shall use excess reserves in the Division of Human Resources Fund in fiscal year 2020 for six (6) premium holidays for agencies.

SECTION 4. EMPLOYEE COMPENSATION. In accordance with Section 67-5309A, Idaho Code, the Legislature's goal for the total compensation system for state employees is to fund a competitive employee compensation and benefit package that will attract qualified applicants to the workforce, retain employees who have a commitment to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance. In pursuit thereof, the Division of Human Resources shall shift the salary structure upward by three percent (3%) beginning on July 1, 2019, with the exception of the minimum wage of \$7.25 per hour at pay grade D. The division shall also maintain the job classifications that are currently on payline exception to address specific employee recruitment or retention issues. Further, notwithstanding the provisions of Section 67-5309, Idaho Code, and any other provision of law to the contrary, state agencies shall increase the ongoing annual salaries of their permanent state employees by no less than five hundred fifty dollars (\$550) effective by July 1, 2019, with the appropriation provided as a three percent (3%) increase in employee compensation. The remaining amounts so appropriated shall be distributed to state employees based on merit at the discretion of agency heads and institution presidents, subject to confirmation of sufficient funding pursuant to Section 67-5304, Idaho Code.

Approved March 21, 2019

CHAPTER 173
(S.B. No. 1162)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REAPPROPRIATION AUTHORITY; AND REQUIRING REPORTS REGARDING THE OFFENDER MANAGEMENT SYSTEM REPLACEMENT PLAN.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$10,185,100	\$5,503,400	\$183,600		\$15,872,100
Technology Infrastructure Stabilization					
Fund		140,400			140,400
Inmate Labor					
Fund	107,800				107,800
Parolee Supervision					
Fund	209,200	92,300			301,500
Miscellaneous Revenue					
Fund	<u>860,200</u>	<u>97,400</u>	<u>0</u>		<u>957,600</u>
TOTAL	\$11,362,300	\$5,833,500	\$183,600		\$17,379,400
II. STATE PRISONS:					
A. PRISONS ADMINISTRATION:					
FROM:					
General					
Fund	\$1,562,700	\$638,600	\$63,900		\$2,265,200
Miscellaneous Revenue					
Fund	369,800	161,400			531,200
Penitentiary Endowment Income					
Fund			160,000		160,000
Federal Grant					
Fund	<u>602,800</u>	<u>496,600</u>	<u>0</u>		<u>1,099,400</u>
TOTAL	\$2,535,300	\$1,296,600	\$223,900		\$4,055,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$23,799,700	\$3,837,500			\$27,637,200
Inmate Labor					
Fund		123,100	\$69,200		192,300
Miscellaneous Revenue					
Fund	678,000	200,000			878,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>1,004,200</u>	<u>182,800</u>		<u>1,187,000</u>
TOTAL	\$24,477,700	\$5,164,800	\$252,000		\$29,894,500
C. IDAHO STATE CORRECTIONAL CENTER - BOISE:					
FROM:					
General					
Fund	\$23,241,400	\$5,804,300			\$29,045,700
Inmate Labor					
Fund		50,500			50,500
Miscellaneous Revenue					
Fund		425,300			425,300
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$85,600</u>		<u>85,600</u>
TOTAL	\$23,241,400	\$6,280,100	\$85,600		\$29,607,100
D. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Fund	\$8,434,400	\$1,805,900			\$10,240,300
Inmate Labor					
Fund	1,049,300	562,000			1,611,300
Miscellaneous Revenue					
Fund	61,300	62,200			123,500
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>83,500</u>	<u>\$16,300</u>		<u>99,800</u>
TOTAL	\$9,545,000	\$2,513,600	\$16,300		\$12,074,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$11,378,000	\$1,725,400			\$13,103,400
Inmate Labor					
Fund		49,700			49,700
Miscellaneous Revenue					
Fund	71,900	64,100			136,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>75,400</u>	<u>\$205,100</u>		<u>280,500</u>
TOTAL	\$11,449,900	\$1,914,600	\$205,100		\$13,569,600
F. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Fund	\$5,335,100	\$1,148,900			\$6,484,000
Inmate Labor					
Fund		140,600	\$24,900		165,500
Miscellaneous Revenue					
Fund	49,800	97,700			147,500
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>12,000</u>	<u>76,600</u>		<u>88,600</u>
TOTAL	\$5,384,900	\$1,399,200	\$101,500		\$6,885,600
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$7,056,400	\$2,039,800			\$9,096,200
Inmate Labor					
Fund	1,311,000	740,200	\$375,600		2,426,800
Miscellaneous Revenue					
Fund	129,300	98,400			227,700
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>21,000</u>	<u>40,900</u>		<u>61,900</u>
TOTAL	\$8,496,700	\$2,899,400	\$416,500		\$11,812,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
H. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund	\$2,576,400	\$502,600			\$3,079,000
Inmate Labor					
Fund	1,027,900	602,700	\$90,500		1,721,100
Miscellaneous Revenue					
Fund		21,000			21,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>1,900</u>	<u>47,000</u>		<u>48,900</u>
TOTAL	\$3,604,300	\$1,128,200	\$137,500		\$4,870,000
I. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$5,998,200	\$1,045,900			\$7,044,100
Inmate Labor					
Fund	327,500	75,800	\$28,200		431,500
Miscellaneous Revenue					
Fund	242,600	113,300			355,900
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>26,900</u>	<u>92,000</u>		<u>118,900</u>
TOTAL	\$6,568,300	\$1,261,900	\$120,200		\$7,950,400
J. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$3,733,200	\$747,100			\$4,480,300
Inmate Labor					
Fund	63,400	47,500			110,900
Miscellaneous Revenue					
Fund		37,800			37,800
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>7,800</u>	<u>\$108,000</u>		<u>115,800</u>
TOTAL	\$3,796,600	\$840,200	\$108,000		\$4,744,800
DIVISION					
TOTAL	\$99,100,100	\$24,698,600	\$1,666,600		\$125,465,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. COUNTY & OUT-OF-STATE PLACEMENT:					
FROM:					
General					
Fund		\$27,455,700			\$27,455,700
IV. CORRECTIONAL ALTERNATIVE PLACEMENT:					
FROM:					
General					
Fund		\$8,695,500	\$1,106,300		\$9,801,800
Miscellaneous Revenue					
Fund		<u>200,000</u>	<u>0</u>		<u>200,000</u>
TOTAL		\$8,895,500	\$1,106,300		\$10,001,800
V. COMMUNITY CORRECTIONS:					
A. COMMUNITY SUPERVISION:					
FROM:					
General					
Fund	\$19,621,900	\$2,579,900	\$562,100		\$22,763,900
Inmate Labor					
Fund		54,100			54,100
Parolee Supervision					
Fund	5,287,900	1,525,700			6,813,600
Drug and Mental Health Court Supervision					
Fund	483,800	27,200			511,000
Miscellaneous Revenue					
Fund	93,500				93,500
Federal Grant					
Fund	<u>397,300</u>	<u>95,300</u>	<u>0</u>		<u>492,600</u>
TOTAL	\$25,884,400	\$4,282,200	\$562,100		\$30,728,700
B. COMMUNITY REENTRY CENTERS:					
FROM:					
General					
Fund	\$3,187,900	\$36,000			\$3,223,900
Inmate Labor					
Fund	<u>1,032,400</u>	<u>1,840,800</u>	<u>\$108,100</u>		<u>2,981,300</u>
TOTAL	\$4,220,300	\$1,876,800	\$108,100		\$6,205,200
DIVISION					
TOTAL	\$30,104,700	\$6,159,000	\$670,200		\$36,933,900

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
VI. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT:					
FROM:					
General					
Fund	\$1,419,600	\$166,800		\$4,566,400	\$6,152,800
Idaho Millennium Income					
Fund	<u>0</u>	<u>0</u>		<u>1,039,000</u>	<u>1,039,000</u>
TOTAL	\$1,419,600	\$166,800		\$5,605,400	\$7,191,800
VII. MEDICAL SERVICES:					
FROM:					
General					
Fund		\$48,683,700			\$48,683,700
Miscellaneous Revenue					
Fund		<u>135,000</u>			<u>135,000</u>
TOTAL		\$48,818,700			\$48,818,700
GRAND TOTAL	\$141,986,700	\$122,027,800	\$3,626,700	\$5,605,400	\$273,246,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than two thousand twenty-one and eighty-five hundredths (2,021.85) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Correction any unexpended and unencumbered balances appropriated to the Department of Correction from the Technology Infrastructure Stabilization Fund for the purpose of replacing its offender management system for fiscal year 2019, in an amount not to exceed \$7,016,000 from the Technology Infrastructure Stabilization Fund, to be used for nonrecurring expenditures related to replacing its offender management system for the period July 1, 2019, through June 30, 2020.

SECTION 4. OFFENDER MANAGEMENT SYSTEM REPLACEMENT PLAN. In accordance with Section 1, Article VIII, of the Constitution of the state of Idaho, the amount reappropriated in Section 3 of this act from the Technology Infrastructure Stabilization Fund constitutes the second of a series of annual onetime appropriations for the department's offender management system replacement plan, subject to the availability of funds and satisfactory project implementation. On or before September 1 of each year, the department shall report to the Legislature regarding the specific efforts made to replace its offender management system; the outcomes of those efforts; an estimate of the annual appropriation amount needed to continue those efforts; and a plan on how the department will continue to make efforts to replace the offender management system.

CHAPTER 174
(S.B. No. 1107)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 2, CHAPTER 348, LAWS OF 2016, RELATING TO THE REPEAL OF SECTION 33-1004, IDAHO CODE; REPEALING SECTION 3, CHAPTER 348, LAWS OF 2016, RELATING TO THE ENACTMENT OF A NEW SECTION 33-1004, IDAHO CODE; AND REPEALING SECTION 4, CHAPTER 348, LAWS OF 2016, RELATING TO AN EFFECTIVE DATE.

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

SECTION 1. That Section 2, Chapter 348, Laws of 2016, be, and the same is hereby repealed.

SECTION 2. That Section 3, Chapter 348, Laws of 2016, be, and the same is hereby repealed.

SECTION 3. That Section 4, Chapter 348, Laws of 2016, be, and the same is hereby repealed.

Approved March 21, 2019

CHAPTER 175
(S.B. No. 1119)

AN ACT

RELATING TO CIVIL ACTIONS; AMENDING SECTION 11-101, IDAHO CODE, TO PROVIDE FOR AN ORDER OF RENEWAL FOR AN EXECUTION ON CERTAIN JUDGMENTS.

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

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

11-101. TIME WITHIN WHICH EXECUTION MAY ISSUE -- STAY PENDING DISPOSITION OF MOTIONS. Except as provided in section 5-245, Idaho Code, for execution on judgments for support of a child and for execution on judgments for restitution to victims of crime, the party in whose favor judgment is given may, at any time within ten (10) years after the entry or order of renewal thereof, have a writ of execution issued for its enforcement, subject to the right of the court to stay execution as provided by the rules adopted by the supreme court. The party in whose favor a judgment for restitution to a victim of crime has been entered pursuant to section 19-5305, Idaho Code, may, at any time within twenty (20) years after the entry thereof, have a writ of execution issued for its enforcement, subject to the right of the court to stay execution as provided by the rules adopted by the supreme court.

Approved March 22, 2019

CHAPTER 176
(H.B. No. 97)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1604, IDAHO CODE, TO DEFINE A TERM, TO REVISE PROVISIONS REGARDING APPLICABILITY OF SPECIFIED LAW TO THE DUTIES AND LIABILITY OF CERTAIN OWNERS OF LAND, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land, airstrips and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

(1-) "Airstrips" means either improved or unimproved landing areas used by pilots to land, park, take off, unload, load and taxi aircraft. Airstrips shall not include landing areas which that are or may become eligible to receive federal funding pursuant to the federal airport and airway improvement act of 1982 and subsequent amendments thereto.

(2-) "Governmental entity" shall have the same meaning as provided in section 6-902, Idaho Code.

(3) "Land" means private or public land, roads, airstrips, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.

~~3-~~ (4) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

~~4-~~ (5) "Recreational purposes" includes, but is not limited to, any of the following activities or any combination thereof: hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, waterskiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

(1-) Extend any assurance that the premises are safe for any purpose.

(2-) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

(3-) Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes who grants public access for recreational purposes pursuant to a lease or other agreement with a governmental entity as long as the landowner does not directly charge individual members of the public for such access, regardless of whether the governmental entity provides landowners with remuneration.

(f) Provisions Apply to Land Subject to a Conservation Easement. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land subject to a conservation easement to any governmental entity or nonprofit organization.

(g) Provisions Apply to Funding, Maintenance or Improvements. The provisions of this section shall be deemed applicable to the duties and liability of any governmental entity, nongovernmental organization or person that provides funds, reasonably performs maintenance, reasonably makes or supports improvements, holds conservation easements or takes similar reasonable action regarding land made available to the public without charge for recreational purposes.

(h) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

(1-) Create a duty of care or ground of liability for injury to persons or property.

(2-) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.

(3-) Apply to any person or persons who for compensation permit the land to be used for recreational purposes.

(i) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property, in addition to all remedies provided in section 6-202, Idaho Code, in the event the person has committed a civil trespass.

Approved March 22, 2019

CHAPTER 177
(H.B. No. 116)

AN ACT

RELATING TO SEXUAL ASSAULT EVIDENCE KITS; PROVIDING LEGISLATIVE INTENT; AND AMENDING SECTION 67-2919, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TESTING OF SEXUAL ASSAULT EVIDENCE KITS, TO DEFINE A TERM, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that the changes made in the requirements for the testing of sexual assault evidence kits contained in this act shall apply only to the testing of sexual assault evidence kits collected on and after the effective date of this act and shall not be retroactive to sexual assault evidence kits that were collected prior to the effective date of this act.

SECTION 2. That Section 67-2919, Idaho Code, be, and the same is hereby amended to read as follows:

67-2919. TESTING AND RETENTION OF SEXUAL ASSAULT EVIDENCE KITS. (1) ~~Unless an adult victim of a reported sexual assault expressly indicates otherwise and e~~Except as provided in subsection (8) of this section, evidence obtained in a sexual assault evidence kit shall be tested by the Idaho state police forensic services laboratory according to sampling protocols and procedures established by the laboratory.

(2) (a) An entity that performs a medical examination of a victim of a reported sexual assault using a sexual assault evidence kit shall do so without regard to the ability or inability of a victim of a reported sexual assault to pay for such an examination.

(b) An entity qualified and reasonably able to perform a medical examination of a victim of a reported sexual assault using a sexual assault evidence kit shall not deny a medical examination to a victim of a reported sexual assault.

(3) An entity that has performed a medical examination of a victim of a reported sexual assault using a sexual assault evidence kit shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred that sexual assault evidence has been collected and is ready for law enforcement to take custody of such evidence according to their its established protocol. The medical entity collecting the kit shall document in the state kit tracking system any required fields.

(4) A local law enforcement agency that receives notice from an entity that has performed a medical examination of a victim of a reported sexual assault as described in subsection (3) of this section shall facilitate the collection of the sexual assault evidence kit and any other collected evidence from the entity that has performed a medical examination of a victim of a reported sexual assault. After obtaining the sexual assault evidence kit and any other collected evidence from the entity that has performed a medical examination of a victim of a reported sexual assault, the local law enforcement agency shall submit such kit, in adherence to the submission policies of the Idaho state police forensic services laboratory, to the Idaho state police forensic services laboratory for testing as soon as reasonably practical, but not later than thirty (30) days after obtaining the kit. If kit submission to the Idaho state police forensic services laboratory is not done within the thirty (30) day time limit or testing is not done by the Idaho state police forensic services laboratory within the ninety (90) day additional time limit established in this subsection, it shall not affect the ability to prosecute or defeat the jurisdiction of the court. Any law enforcement agency with sexual assault evidence kits or other sexual assault case evidence belonging to another jurisdiction must notify that jurisdiction within seven (7) days of obtaining the kits or evidence, and the receiving jurisdiction must pick up the sexual assault evidence kits or other sexual assault case evidence within seven (7) days. The law enforcement agency shall make a good faith effort to collect and submit the required reference samples associated with a submitted sexual assault evidence kit.

(5) For all sexual assault evidence kits received pursuant to subsection (4) of this section, the Idaho state police forensic services laboratory shall test such kits and submit eligible results to the Idaho DNA database within ninety (90) days. The laboratory shall report any kits not processed within ninety (90) days to the county prosecutor with jurisdiction in the case and to the Idaho legislature.

(6) Following analysis by the Idaho state police forensic services laboratory, sexual assault evidence kits shall be returned to and retained by the investigating agency in accordance with agency evidence standards and for the following durations:

(a) For death penalty cases, until the sentence in the case has been carried out and no unapprehended persons associated with the offense exist;

(b) For felony cases, including anonymous sexual assault kits collected under the violence against women act, fifty-five (55) years from the collection of the kit during the medical examination or until the sentence in the case is completed, whichever occurs first; and

(c) For cases before July 1, 2019, where there is no evidence to support a crime being committed, or when it is no longer being investigated as a crime or when an adult victim expressly indicates that no further forensic examination or testing occur, ten (10) years from collection of the kit during the medical examination; and

(d) For cases on and after July 1, 2019, where a crime is alleged and the allegation has been determined to be unfounded, ten (10) years from collection of the kit during the medical examination.

(7) Provided that an investigating agency has current contact information, the investigating agency shall, upon written request from a victim of sexual assault, a parent or guardian if the victim is a minor, or a relative if the victim is deceased, provide written notification of the destruction or disposal of a sexual assault evidence kit and any other sexual assault case evidence no later than sixty (60) days before the date of the destruction or disposal. A victim of sexual assault, a parent or guardian if the victim is a minor, or a relative if the victim is deceased, may petition a court to preserve a sexual assault evidence kit and its contents for longer than the time prescribed in this subsection.

(8) All sexual assault evidence kits collected in this state where a crime is alleged and the allegation has not been determined to be unfounded shall be processed by the Idaho state police forensic services laboratory except when there is no evidence to support a crime being committed, when it is no longer being investigated as a crime or when an adult victim expressly indicates that no further forensic examination or testing occur pursuant to subsection (1) of this section for kits where the victim requests the kit be collected as an anonymous kit, such as under the provisions of the federal violence against women act. Any sexual assault evidence kit, with the exception of an anonymous sexual assault evidence kit, that is not examined and tested shall be independently reviewed by the county prosecutor. In the event such review concludes that the kit should have been tested, testing shall occur as provided in subsections (4) and (5) of this section.

(9) The Idaho state police shall promulgate rules to create a tracking process for sexual assault evidence kits in possession of the Idaho state police forensic services laboratory and every law enforcement agency throughout the state. Such rules shall provide for the information to be submitted to the Idaho state police by law enforcement agencies to assist in such tracking.

(10) Idaho state police forensic services shall approve and provide, at no cost to the victim, appropriate sexual assault evidence kits to requesting entities and law enforcement agencies. All such kits shall contain a form for victims to inform them of their right of notification pursuant to subsections (12) and (13) of this section and of their right to decline to have a kit collected ~~or tested~~ pursuant to subsection (1) of this section.

(11) Within one hundred eighty (180) days of the effective date of this act, the Idaho state police forensic services laboratory shall provide a ~~one-time~~ onetime report to the legislature of all untested sexual assault evidence kits in Idaho. To assist with this ~~one-time~~ onetime report, all law enforcement agencies in Idaho shall perform a ~~one-time~~ onetime audit of any untested sexual assault evidence kits in their possession and submit to the Idaho state police forensic services director the following:

(a) The number of untested kits in the law enforcement agency's possession;

(b) The date each kit was collected and the reason it was not submitted to Idaho state police forensic services for testing; and

(c) The number of any anonymous or unreported kits in the law enforcement agency's possession.

Law enforcement agencies shall follow the same protocol to perform the audit of untested sexual assault evidence kits as they would with any new kit submitted to the agency. The audit performed by a law enforcement agency shall be reviewed by a law enforcement representative and the county prosecutor before the final report is provided to the legislature.

(12) A law enforcement agency that submits a sexual assault evidence kit pursuant to subsection (4) of this section shall, upon written request, notify a victim of sexual assault, a parent or guardian if the victim is a minor at the time of notification, or a relative if the victim is deceased, of the following:

(a) When the sexual assault evidence kit is submitted to the Idaho state police forensic services laboratory;

(b) When any evidence sample DNA profile is entered into the Idaho DNA database;

(c) When a DNA match occurs; provided however, that such notification shall state only that a match has occurred and shall not contain any genetic or other identifying information; and

(d) When there is any change in the status of ~~their~~ the case or reopening of the case.

As used in this subsection, "notify" shall include updates to a website used by the Idaho state police forensic services laboratory for sexual assault evidence kits.

(13) On or before January 20, 2017, and by January 20 of each year thereafter, Idaho state police forensic services shall submit a report to the Idaho legislature regarding its examination of sexual assault evidence kits throughout the state in the previous year. The report shall include, but not be limited to, the number of kits purchased and distributed by Idaho state police forensic services, the number of kits collected by each law enforcement agency, the number of kits tested by the Idaho state police forensic services laboratory, the number of kits not submitted to the Idaho state police forensic services laboratory pursuant to subsection ~~(1)~~ ~~or~~ (8) of this section, the number of DNA database hits from sexual assault cases, evidence kits, the number of unresolved DNA database hits from sexual assault evidence kits for each law enforcement agency, the number of sexual assault evidence kits submitted without required reference samples for each law enforcement agency, and a list of any law enforcement agencies that did not adhere to the tracking process promulgated pursuant to subsection (9) of this section, and for the report submitted in 2017, a list of any law enforcement agencies that did not participate in the audit required in subsection (11) of this section. This report shall be available on the website of the Idaho state police and readily available to the public. No victim or alleged perpetrator names shall be included in the report. Information shall be provided in aggregate and shall not include case-specific information.

(14) As used in this section:

(a) "Sexual assault evidence kit" means a set of materials, such as swabs and tools for collecting blood samples, used to gather forensic evidence from a victim of reported sexual assault and the evidence obtained with such materials.

(b) "Unfounded" means evidence exists that proves no crime occurred.

(c) "Written request" and "written notification" shall include electronic mail.

CHAPTER 178
(H.B. No. 144)

AN ACT

RELATING TO BARBER AND COSMETOLOGY SERVICES; AMENDING SECTION 54-5805, IDAHO CODE, TO PROVIDE FOR PERSONAL CARE AND HYGIENE SERVICES AT SPECIFIED FACILITIES.

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

SECTION 1. That Section 54-5805, Idaho Code, be, and the same is hereby amended to read as follows:

54-5805. EXEMPTIONS FROM LICENSURE. The licensing, certification and registration provisions of this chapter shall not apply to the following:

(1) Persons authorized by the laws of this state to practice as a nurse or to practice any of the healing arts while in the proper discharge or delegation of their professional duties.

(2) Persons who provide on-site personal care or hygiene services including shaving, trimming of hair, beard or mustache, washing, brushing, or combing hair, and basic skin care and nail care to residents at facilities licensed under the department of health and welfare division of licensing and certification.

(3) Persons practicing in their own home without compensation who are not practicing on the public in general.

(34) Persons practicing on a relative without compensation.

(45) Persons whose practice is limited to the facial application of cosmetic products to customers in connection with the sale or attempted sale of cosmetic products on the premises of a retail cosmetics dealer without compensation from the customer other than the price of the products.

(56) Persons whose practice is limited to the demonstration of thermal styling equipment on customers in connection with the sale or attempted sale of thermal styling equipment on the premises of a registered thermal styling equipment dealer without compensation from the customer other than the price of the equipment.

(67) Currently enrolled students or actively registered apprentices practicing or demonstrating outside of a licensed school or establishment when that practice or demonstration is under the direct supervision of a licensed instructor. Members of the public may not be charged for any services performed by a student or an apprentice practicing pursuant to this subsection.

(78) Persons who are licensed or qualified through proper documentation to practice or teach barbering, barber-styling or cosmetology in a state, territory or possession of the United States or in a foreign country and whose practice and activities are limited to education or demonstration of no more than fourteen (14) consecutive days, provided that such persons shall observe and comply with sanitation requirements established by rule. Members of the public may not be charged for any services performed as part of the demonstration or education.

(89) Persons who are licensed or qualified through proper documentation and in good standing to practice barber-styling and cosmetology services in another jurisdiction of the United States or in a foreign country and who are employed or contracted to perform barber-styling or cosmetology services in the course of and incidental to the production of a theatrical or other visual arts production including, but not limited to, stage productions, television and motion pictures.