

IN THE SENATE

SENATE BILL NO. 1334

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 6-210, IDAHO CODE, TO
2 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
3 AMENDING SECTION 6-416, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
4 ERENCE; AMENDING SECTION 15-3-303, IDAHO CODE, TO PROVIDE A CORRECT
5 CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
6 15-3-308, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE
7 TECHNICAL CORRECTIONS; AMENDING SECTION 15-3-1302, IDAHO CODE, TO
8 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION;
9 AMENDING SECTION 15-7-601, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
10 ERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1508,
11 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION
12 16-2428, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE
13 TECHNICAL CORRECTIONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REMOVE
14 SURPLUS VERBIAGE; AMENDING SECTION 18-4629, IDAHO CODE, TO PROVIDE A
15 CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
16 TION 18-6706, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
17 SECTION 19-2524, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE AND TO MAKE
18 TECHNICAL CORRECTIONS; AMENDING SECTION 20-517, IDAHO CODE, TO PROVIDE
19 A CORRECT REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
20 23-1325A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
21 SECTION 26-206, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
22 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-4-613, IDAHO CODE, TO
23 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
24 AMENDING SECTION 30-14-411, IDAHO CODE, TO PROVIDE CORRECT REFERENCES;
25 AMENDING SECTION 30-23-102, IDAHO CODE, TO PROVIDE CORRECT CODE REFER-
26 ENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-23-103,
27 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION
28 30-23-107, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMEND-
29 ING SECTION 30-23-109, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES
30 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-23-111, IDAHO
31 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 30-23-401,
32 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION
33 30-23-402, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
34 SECTION 30-23-406, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;
35 AMENDING SECTION 30-23-601, IDAHO CODE, TO PROVIDE CORRECT CODE REF-
36 ERENCES; AMENDING SECTION 30-23-702, IDAHO CODE, TO PROVIDE A CORRECT
37 CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
38 30-23-803, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
39 SECTION 30-23-901, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;
40 AMENDING SECTION 30-24-204, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
41 ERENCE; AMENDING SECTION 30-24-801, IDAHO CODE, TO PROVIDE A CORRECT
42 CODE REFERENCE; AMENDING SECTION 30-24-803, IDAHO CODE, TO PROVIDE A
43 CORRECT CODE REFERENCE; AMENDING SECTION 31-3517, IDAHO CODE, TO REMOVE
44 SURPLUS VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
45

1 31-4121, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
 2 55-2202, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE A TECH-
 3 NICAL CORRECTION; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE A
 4 CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
 5 TION 67-6602, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE A
 6 TECHNICAL CORRECTION; AMENDING SECTION 67-6621, IDAHO CODE, TO REMOVE
 7 SURPLUS VERBIAGE; AMENDING CHAPTER 93, TITLE 67, IDAHO CODE, AS ENACTED
 8 BY SECTION 1, CHAPTER 206, LAWS OF 2019, TO REDESIGNATE THE CHAPTER; AND
 9 AMENDING SECTION 72-1019, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
 10 ENCE AND TO MAKE A TECHNICAL CORRECTION.

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

12 SECTION 1. That Section 6-210, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 6-210. RECOVERY OF DAMAGES FOR ECONOMIC LOSS WILLFULLY CAUSED BY A MI-
 15 NOR. (1) Any person shall be entitled to recover damages in an amount not
 16 to exceed two thousand five hundred dollars (\$2,500) in a court of compe-
 17 tent jurisdiction from the parents of any minor, under the age of eighteen
 18 (18) years, living with the parents, who shall willfully cause economic loss
 19 to such person, except as otherwise provided in section 49-310, Idaho Code.
 20 "Person" means any municipal corporation, county, city school district, or
 21 any individual, partnership, corporation or association, or any religious
 22 organization, whether incorporated or unincorporated.

23 (2) Economic loss shall include, but not be limited to, the value of
 24 property, as that term is defined in section 18-2402(8), Idaho Code, taken,
 25 destroyed, broken or otherwise harmed, lost wages and direct out-of-pocket
 26 losses or expenses such as medical expenses resulting from the minor's will-
 27 ful conduct, but shall not include less tangible damage such as pain and suf-
 28 fering, wrongful death or emotional distress.

29 (3) As used in this section, "parents" shall mean any persons or enti-
 30 ties who have legal custody of the minor, or any persons or entities who are
 31 licensed to accept children for child care under chapter 12, title 39, Idaho
 32 Code. "Legal custody" shall be as that term is defined in section 16-2002,
 33 Idaho Code.

34 (4) In the event the parents are providing foster care for the minor at
 35 the time of the minor's willful act, and the parents are licensed pursuant
 36 to ~~section 39-1211~~ chapter 12, title 39, Idaho Code, and the minor is in the
 37 legal custody of the department of health and welfare, any person is enti-
 38 tled to recover damages in a court of competent jurisdiction within the above
 39 stated limits. Such recovery shall be insured by the state of Idaho.

40 SECTION 2. That Section 6-416, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 6-416. OCCUPANT OF REAL ESTATE -- DETERMINATION OF RIGHT TO POSSES-
 43 SION -- TENANTS IN COMMON -- PARTITION PROCEDURE. The owner in the main ac-
 44 tion may thereupon pay the value of the improvements determined on trial and
 45 take the property, but should he fail to do so after a reasonable time not
 46 to exceed one (1) year, to be fixed by the court, the claimant may take the

1 property upon paying its value determined on trial, less any amount paid by
 2 claimant or his predecessor on a judicial or tax sale, exclusive of the im-
 3 provements. If this is not done within said time, to be fixed by the court,
 4 the parties will be held to be tenants in common of all the real estate, in-
 5 cluding the improvements, each holding an interest proportionate to the val-
 6 ues ascertained on the trial; provided, further, that thereafter, upon the
 7 motion of either party, proceedings may be had for partition thereof in ac-
 8 cordance with chapter 5, title ~~5~~6, Idaho Code.

9 SECTION 3. That Section 15-3-303, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 15-3-303. INFORMAL PROBATE -- PROOF AND FINDINGS REQUIRED. (a) In an
 12 informal proceeding for original probate of a will or informal statement of
 13 intestacy where the estate is community and there is a surviving spouse, the
 14 registrar shall determine whether:

- 15 (1) ~~the~~ application is complete;
- 16 (2) ~~the~~ applicant has made oath or affirmation that the statements
 17 contained in the application are true to the best of his knowledge and
 18 belief;
- 19 (3) ~~the~~ applicant appears from the application to be an interested
 20 person as defined in subsection (245) of section 15-1-201 ~~of this code,~~
 21 Idaho Code;
- 22 (4) ~~On~~ the basis of the statements in the application, venue is proper;
- 23 (5) ~~a~~ An original, duly executed and apparently unrevoked will is in the
 24 registrar's possession;
- 25 (6) ~~a~~ Any notice required by section 15-3-204 ~~of this code,~~ Idaho Code,
 26 has been given and that the application is not within section 15-3-304
 27 ~~of this part, and,~~ Idaho Code;
- 28 (7) ~~It~~ appears from the application that the time limit for original
 29 probate has not expired; and
- 30 (8) ~~If~~ the application is for a statement of intestacy of a community
 31 estate with a surviving spouse, on the basis of statements in the ap-
 32 plication and affidavit: 1. the decedent left no will, 2. the deced-
 33 ent's estate consists solely of community property of the decedent and
 34 the surviving spouse, and 3. the decedent left a surviving spouse. In
 35 addition to this, the registrar shall set out the name of the surviving
 36 spouse.

37 (b) The application shall be denied if it indicates that a personal rep-
 38 resentative has been appointed in another county of this state or, except as
 39 provided in subsection (d) of this section, if it appears that this or an-
 40 other will of the decedent has been the subject of a previous probate order.

41 (c) A will which appears to have the required signatures and which con-
 42 tains an attestation clause showing that requirements of execution under
 43 section 15-2-502, 15-2-503 or 15-2-506 ~~of this code,~~ Idaho Code, have been
 44 met shall be probated without further proof. In other cases, the registrar
 45 may assume execution if the will appears to have been properly executed, or
 46 he may accept a sworn statement or affidavit of any person having knowledge
 47 of the circumstances of execution, whether or not the person was a witness to
 48 the will.

1 (d) Informal probate of a will ~~which that~~ has been previously probated
 2 elsewhere may be granted at any time upon written application by any inter-
 3 ested person, together with deposit of an authenticated copy of the will and
 4 of the statement probating it from the office or court where it was first pro-
 5 bated.

6 (e) A will from a place ~~which that~~ does not provide for probate of a will
 7 after death, and ~~which that~~ is not eligible for probate under subsection (a)
 8 of this section, may be probated in this state upon receipt by the registrar
 9 of a duly authenticated copy of the will and a duly authenticated certificate
 10 of its legal custodian that the copy filed is a true copy and that the will has
 11 become operative under the law of the other place.

12 SECTION 4. That Section 15-3-308, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 15-3-308. INFORMAL APPOINTMENT PROCEEDINGS -- PROOF AND FINDINGS RE-
 15 QUIRED. (a) In informal appointment proceedings, the registrar must deter-
 16 mine whether:

17 (1) ~~¶~~The application for informal appointment of a personal represen-
 18 tative is complete;

19 (2) ~~¶~~The applicant has made oath or affirmation that the statements
 20 contained in the application are true to the best of his knowledge and
 21 belief;

22 (3) ~~¶~~The applicant appears from the application to be an interested
 23 person as defined in subsection (245) of section 15-1-201 ~~of this code,~~
 24 Idaho Code;

25 (4) ~~¶~~On the basis of the statements in the application, venue is proper;

26 (5) ~~¶~~Any will to which the requested appointment relates has been for-
 27 mally or informally probated; but this requirement does not apply to the
 28 appointment of a special administrator;

29 (6) ~~¶~~Any notice required by section 15-3-204 ~~of this code,~~ Idaho Code,
 30 has been given;

31 (7) ~~¶~~From the statements in the application, the person whose appoint-
 32 ment is sought has priority entitling him to the appointment.

33 (b) Unless section 15-3-612 ~~of this code,~~ Idaho Code, controls, the ap-
 34 plication must be denied if it indicates that a personal representative who
 35 has not filed a written statement of resignation as provided in subsection
 36 (c) of section 15-3-610 ~~of this code,~~ Idaho Code, has been appointed in this
 37 or another county of this state, that (unless the applicant is the domicil-
 38 iary personal representative or his nominee) the decedent was not domiciled
 39 in this state, and that a personal representative whose appointment has not
 40 been terminated has been appointed by a court in the state of domicile, or
 41 that other requirements of this section have not been met.

42 SECTION 5. That Section 15-3-1302, Idaho Code, be, and the same is
 43 hereby amended to read as follows:

44 15-3-1302. DEFINITIONS. As ~~use~~ used in this part:

45 (a) "Apportionable estate" means the value of the gross estate as fi-
 46 nally determined for purposes of the estate tax to be apportioned reduced by:

- 1 (1) Any claim or expense allowable as a deduction for purposes of the
2 tax;
- 3 (2) The value of any interest in property that, for purposes of the
4 tax, qualifies for a marital or charitable deduction or otherwise is
5 deductible or is exempt; and
- 6 (3) Any amount added to the decedent's gross estate because of a gift
7 tax on transfers made before death.
- 8 (b) "Estate tax" means a federal, state, or foreign tax, however de-
9 nominated, imposed because of the death of an individual and interest and
10 penalties associated with the tax. The term does not include an inheritance
11 tax, income tax, or generation-skipping transfer tax other than a genera-
12 tion-skipping transfer tax incurred on a direct skip taking effect at death.
- 13 (c) "Gross estate" means, with respect to an estate tax, all interests
14 in property subject to the tax.
- 15 (d) "Person" has the same meaning set forth in section 15-1-201(334),
16 Idaho Code.
- 17 (e) "Ratable" means apportioned or allocated pro rata according to the
18 relative values of interests to which the term is to be applied. "Ratably"
19 has a corresponding meaning.
- 20 (f) "Time-limited interest" means an interest in property which termi-
21 nates on a lapse of time or on the occurrence or nonoccurrence of an event or
22 which is subject to the exercise of discretion that could transfer a benefi-
23 cial interest to another person. The term does not include a cotenancy un-
24 less the cotenancy itself is a time-limited interest.
- 25 (g) "Value" means, with respect to an interest in property, fair market
26 value as finally determined for purposes of the estate tax that is to be ap-
27 portioned, reduced by any outstanding debt secured by the interest without
28 reduction:
- 29 (1) For taxes paid or required to be paid; or
30 (2) For any special valuation adjustment.

31 SECTION 6. That Section 15-7-601, Idaho Code, be, and the same is hereby
32 amended to read as follows:

- 33 15-7-601. PURPOSE TRUSTS. (1) A trust may be created for any purpose,
34 charitable or noncharitable, under the terms of a trust agreement or will. A
35 noncharitable trust so created is a purpose trust and shall exist to serve a
36 purpose.
- 37 (2) A purpose trust does not need a beneficiary.
- 38 (3) A purpose trust shall be enforceable on the terms set forth in the
39 trust agreement by the person named to enforce the trust; provided, however,
40 that the failure to name a person to enforce the trust shall not void the
41 trust or otherwise cause it to be unenforceable.
- 42 (4) A person named to enforce a purpose trust may resign or be removed or
43 replaced in accordance with the trust.
- 44 (5) If the person named to enforce the trust resigns, or is removed, or
45 is unwilling or unable to act, and if no successor is named in accordance with
46 the trust, the trustee shall forthwith apply to the court having jurisdic-
47 tion of the purpose trust for directions or for a person to be appointed by
48 the court to enforce the trust. The court having jurisdiction of the pur-
49 pose trust shall be empowered to make an order appointing a person to enforce

1 the trust on such terms as it sees fit and to designate how successors will be
2 named.

3 (6) During any period of time when no person is named or acting to en-
4 force a purpose trust, the court having jurisdiction of the purpose trust
5 shall have the right to exercise all powers necessary to enforce the trust in
6 order to serve the purpose for which it was created.

7 (7) Any interested person, as defined in section 15-1-201(245), Idaho
8 Code, may bring an action under law or equity to enforce a purpose trust.

9 (8) Charitable trusts are not governed by this section.

10 (9) A purpose trust created prior to July 1, 2005, shall be valid and
11 enforceable from the date of the trust's creation.

12 SECTION 7. That Section 16-1508, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 16-1508. EFFECT OF ADOPTION. A child or adult, when adopted, may take
15 the name of the person adopting, and the two (2) shall thenceforth sustain
16 toward each other the legal relation of parent and child, and shall have all
17 the rights and shall be subject to all the duties of that relation, including
18 all of the rights of a child of the whole blood to inherit from any person, in
19 all respects, under the provisions of section ~~14-103~~ 15-2-103, Idaho Code,
20 and to the same extent as a child of the whole blood.

21 SECTION 8. That Section 16-2428, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 16-2428. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. All certifi-
24 cates, applications, records, and reports directly or indirectly identify-
25 ing a patient or former patient or an individual whose involuntary treatment
26 has been sought under this chapter shall be kept confidential and shall not
27 be disclosed by any person except with the consent of the person identified
28 or his legal guardian, if any, or as disclosure may be necessary to carry out
29 any of the provisions of this chapter, or as a court may direct upon its de-
30 termination that disclosure is necessary and that failure to make such dis-
31 closure would be contrary to public interest.

32 (1) No person in possession of confidential statements made by a child
33 over the age of fourteen (14) years in the course of treatment may disclose
34 such information to the child's parent or others without the written permis-
35 sion of the child, unless such disclosure is necessary to obtain insurance
36 coverage, to carry out the treatment plan or to prevent harm to the child
37 or others, ~~or~~ unless authorized to disclose such information by order of a
38 court.

39 (2) The child has the right of access to information regarding his
40 treatment and has the right to have copies of information and to submit
41 clarifying or correcting statements and other documentation of reasonable
42 length for inclusion with his treatment record.

43 (3) Nothing in this section shall prohibit the denial of access to
44 records, by a child when a physician or other mental health professional
45 believes and notes in the child's medical records that the disclosure would
46 be damaging to the child. In any case, the child has the right to petition the
47 court for an order granting access.

1 (4) Access to records by the state protection and advocacy system shall
2 be governed by 42 U.S.C. ~~10108~~ 10801 et seq., as amended.

3 SECTION 9. That Section 18-3302, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 18-3302. CONCEALED WEAPONS. (1) The legislature hereby finds that the
6 people of Idaho have reserved for themselves the right to keep and bear arms
7 while granting the legislature the authority to regulate the carrying of
8 weapons concealed. The provisions of this chapter regulating the carrying
9 of weapons must be strictly construed so as to give maximum scope to the
10 rights retained by the people.

11 (2) As used in this chapter:

12 (a) "Concealed weapon" means any deadly weapon carried on or about the
13 person in a manner not discernible by ordinary observation;

14 (b) "Deadly weapon" means:

15 (i) Any dirk, dirk knife, bowie knife, dagger or firearm;

16 (ii) Any other weapon, device, instrument, material or substance
17 that is designed and manufactured to be readily capable of causing
18 death or serious bodily injury; or

19 (iii) Any other weapon, device, instrument, material or substance
20 that is intended by the person to be readily capable of causing
21 death or serious bodily injury.

22 (c) The term "deadly weapon" does not include:

23 (i) Any knife, cleaver or other instrument that is intended by the
24 person to be used in the processing, preparation or eating of food;

25 (ii) Any knife with a blade six (6) inches or less; or

26 (iii) Any taser, stun-gun, pepper spray or mace;

27 (d) "Firearm" means any weapon that will, is designed to, or may readily
28 be converted to expel a projectile by the action of an explosive;

29 (e) "Loaded" means:

30 (i) For a firearm capable of using fixed ammunition, that live
31 ammunition is present in:

32 1. The chamber or chambers of the firearm;

33 2. Any internal magazine of the firearm; or

34 3. A detachable magazine inserted in the firearm;

35 (ii) For a firearm that is not capable of using fixed ammunition,
36 that the firearm contains:

37 1. A propellant charge; and

38 2. A priming cap or primer cap.

39 (3) No person shall carry concealed weapons on or about his person with-
40 out a license to carry concealed weapons, except:

41 (a) In the person's place of abode or fixed place of business;

42 (b) On property in which the person has any ownership or leasehold in-
43 terest;

44 (c) On private property where the person has permission to carry con-
45 cealed weapons from any person with an ownership or leasehold interest;

46 (d) Outside the limits of or confines of any city, if the person is eigh-
47 teen (18) years of age or older and is not otherwise disqualified from
48 being issued a license under subsection (11) of this section.

1 (4) Subsection (3) of this section shall not apply to restrict or pro-
2 hibit the carrying or possession of:

3 (a) Any deadly weapon located in plain view;

4 (b) Any lawfully possessed shotgun or rifle;

5 (c) Any deadly weapon concealed in a motor vehicle;

6 (d) A firearm that is not loaded and is secured in a case;

7 (e) A firearm that is disassembled or permanently altered such that it
8 is not readily operable; and

9 (f) Any deadly weapon concealed by a person who is:

10 (i) Over eighteen (18) years of age;

11 (ii) A resident of Idaho or a current member of the armed forces of
12 the United States; and

13 (iii) Is not disqualified from being issued a license under para-
14 graphs (b) through (n) of subsection (11) of this section. ~~(a)~~

15 (5) The requirement to secure a license to carry concealed weapons un-
16 der this section shall not apply to the following persons:

17 (a) Officials of a city, county or the state of Idaho;

18 (b) Any publicly elected Idaho official;

19 (c) Members of the armed forces of the United States or of the national
20 guard when in performance of official duties;

21 (d) Criminal investigators of the attorney general's office and crim-
22 inal investigators of a prosecuting attorney's office, prosecutors and
23 their deputies;

24 (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in
25 good standing;

26 (f) Retired peace officers or detention deputies with at least ten (10)
27 years of service with the state or a political subdivision as a peace of-
28 ficer or detention deputy and who have been certified by the peace offi-
29 cer standards and training council;

30 (g) Any person who has physical possession of his valid license or per-
31 mit authorizing him to carry concealed weapons from another state; and

32 (h) Any person who has physical possession of a valid license or permit
33 from a local law enforcement agency or court of the United States autho-
34 rizing him to carry concealed weapons.

35 (6) The sheriff of the county of the applicant's residence or, if the
36 applicant has obtained a protection order pursuant to chapter 63, title 39,
37 Idaho Code, the sheriff of a county where the applicant is temporarily resid-
38 ing may issue a temporary emergency license for good cause pending review of
39 an application made under subsection (7) of this section. Temporary emer-
40 gency licenses must be easily distinguishable from regular licenses. A tem-
41 porary emergency license shall be valid for not more than ninety (90) days.

42 (7) The sheriff of a county, on behalf of the state of Idaho, must,
43 within ninety (90) days after the filing of a license application by any per-
44 son who is not disqualified as provided herein from possessing or receiving
45 a firearm under state or federal law, issue a license to the person to carry
46 concealed weapons on his person within this state. Such license shall be
47 valid for five (5) years from the date of issuance.

48 (8) The sheriff must make license applications readily available at the
49 office of the sheriff, at other public offices in his or her jurisdiction and
50 on the website of the Idaho state police. The license application shall be

1 in a form to be prescribed by the director of the Idaho state police and must
2 meet the following requirements:

3 (a) The license application shall require the applicant's name, ad-
4 dress, description, signature, date of birth, place of birth, military
5 status, citizenship and the driver's license number or state identi-
6 fication card number if used for identification in applying for the
7 license. Provided however, that if the applicant is not a United States
8 citizen and is legally in the United States, the application must also
9 require any alien or admission number issued to the applicant by United
10 States immigration and customs enforcement or any successor agency;

11 (b) The license application may ask the applicant to disclose his
12 social security number but must indicate that disclosure of the appli-
13 cant's social security number is optional; and

14 (c) The license application must contain a warning that substantially
15 reads as follows:

16 CAUTION: Federal law and state law on the possession of weapons and
17 firearms differ. If you are prohibited by federal law from possess-
18 ing a weapon or a firearm, you may be prosecuted in federal court. A
19 state permit is not a defense to a federal prosecution.

20 (9) The sheriff may require the applicant to demonstrate familiarity
21 with a firearm and must accept any one (1) of the following as evidence of the
22 applicant's familiarity with a firearm:

23 (a) Completion of any hunter education or hunter safety course approved
24 by the department of fish and game or a similar agency of another state;

25 (b) Completion of any national rifle association firearms safety or
26 training course or any national rifle association hunter education
27 course or any equivalent course;

28 (c) Completion of any firearms safety or training course or class
29 available to the general public offered by a law enforcement agency,
30 community college, college, university or private or public institu-
31 tion or organization or firearms training school, utilizing instruc-
32 tors certified by the national rifle association or the Idaho state
33 police;

34 (d) Completion of any law enforcement firearms safety or training
35 course or class offered for security guards, investigators, special
36 deputies, or offered for any division or subdivision of a law enforce-
37 ment agency or security enforcement agency;

38 (e) Evidence of equivalent experience with a firearm through partici-
39 pation in organized shooting competition or military service;

40 (f) A current license to carry concealed weapons pursuant to this sec-
41 tion, unless the license has been revoked for cause;

42 (g) Completion of any firearms training or safety course or class con-
43 ducted by a state-certified or national rifle association-certified
44 firearms instructor; or

45 (h) Other training that the sheriff deems appropriate.

46 (10) Any person applying for original issuance of a license to carry
47 concealed weapons must submit his fingerprints with the completed license
48 application. Within five (5) days after the filing of an application, the

1 sheriff must forward the applicant's completed license application and fin-
2 gerprints to the Idaho state police. The Idaho state police must conduct a
3 national fingerprint-based records check, an inquiry through the national
4 instant criminal background check system and a check of any applicable state
5 database, including a check for any mental health records for conditions or
6 commitments that would disqualify a person from possessing a firearm under
7 state or federal law, and return the results to the sheriff within sixty
8 (60) days. If the applicant is not a United States citizen, an immigration
9 alien query must also be conducted through United States immigration and
10 customs enforcement or any successor agency. The sheriff shall not issue
11 a license before receiving the results of the records check and must deny a
12 license if the applicant is disqualified under any of the criteria listed
13 in subsection (11) of this section. The sheriff may deny a license to carry
14 concealed weapons to an alien if background information is not attainable or
15 verifiable.

16 (11) A license to carry concealed weapons shall not be issued to any per-
17 son who:

18 (a) Is under twenty-one (21) years of age, except as otherwise provided
19 in this section;

20 (b) Is formally charged with a crime punishable by imprisonment for a
21 term exceeding one (1) year;

22 (c) Has been adjudicated guilty in any court of a crime punishable by
23 imprisonment for a term exceeding one (1) year;

24 (d) Is a fugitive from justice;

25 (e) Is an unlawful user of marijuana or any depressant, stimulant or
26 narcotic drug, or any controlled substance as defined in 21 U.S.C. 802;

27 (f) Is currently suffering from or has been adjudicated as having suf-
28 fered from any of the following conditions, based on substantial evi-
29 dence:

30 (i) Lacking mental capacity as defined in section 18-210, Idaho
31 Code;

32 (ii) Mentally ill as defined in section 66-317, Idaho Code;

33 (iii) Gravely disabled as defined in section 66-317, Idaho Code;
34 or

35 (iv) An incapacitated person as defined in section 15-5-101,
36 Idaho Code;

37 (g) Has been discharged from the armed forces under dishonorable condi-
38 tions;

39 (h) Has received a withheld judgment or suspended sentence for a crime
40 punishable by imprisonment for a term exceeding one (1) year, unless the
41 person has successfully completed probation;

42 (i) Has received a period of probation after having been adjudicated
43 guilty of, or received a withheld judgment for, a misdemeanor offense
44 that has as an element the intentional use, attempted use or threatened
45 use of physical force against the person or property of another, unless
46 the person has successfully completed probation;

47 (j) Is an alien illegally in the United States;

48 (k) Is a person who having been a citizen of the United States has re-
49 nounced his or her citizenship;

1 (l) Is free on bond or personal recognizance pending trial, appeal or
2 sentencing for a crime that would disqualify him from obtaining a con-
3 cealed weapons license;

4 (m) Is subject to a protection order issued under chapter 63, title
5 39, Idaho Code, that restrains the person from harassing, stalking or
6 threatening an intimate partner of the person or child of the intimate
7 partner or person, or engaging in other conduct that would place an
8 intimate partner in reasonable fear of bodily injury to the partner or
9 child; or

10 (n) Is for any other reason ineligible to own, possess or receive a
11 firearm under the provisions of Idaho or federal law.

12 (12) In making a determination in relation to an applicant's eligibil-
13 ity under subsection (11) of this section, the sheriff shall not consider:

14 (a) A conviction, guilty plea or adjudication that has been nullified
15 by expungement, pardon, setting aside or other comparable procedure by
16 the jurisdiction where the conviction, guilty plea or adjudication oc-
17 curred or in respect of which conviction, guilty plea or adjudication
18 the applicant's civil right to bear arms either specifically or in com-
19 bination with other civil rights has been restored under operation of
20 law or legal process; or

21 (b) Except as provided for in subsection (11) (f) of this section, an
22 adjudication of mental defect, incapacity or illness or an involuntary
23 commitment to a mental institution if the applicant's civil right to
24 bear arms has been restored under operation of law or legal process.

25 (13) A license to carry concealed weapons must be in a form substan-
26 tially similar to that of the Idaho driver's license and must meet the
27 following specifications:

28 (a) The license must provide the licensee's name, address, date of
29 birth and the driver's license number or state identification card num-
30 ber if used for identification in applying for the license;

31 (b) The license must bear the licensee's signature and picture; and

32 (c) The license must provide the date of issuance and the date on which
33 the license expires.

34 (14) Upon issuing a license under the provisions of this section, the
35 sheriff must notify the Idaho state police within three (3) business days on
36 a form or in a manner prescribed by the Idaho state police. Information re-
37 lating to an applicant or licensee received or maintained pursuant to this
38 section by the sheriff or Idaho state police is confidential and exempt from
39 disclosure under section 74-105, Idaho Code.

40 (15) The fee for original issuance of a license shall be twenty dollars
41 (\$20.00), which the sheriff must retain for the purpose of performing the du-
42 ties required in this section. The sheriff may collect the actual cost of any
43 additional fees necessary to cover the cost of processing fingerprints law-
44 fully required by any state or federal agency or department, and the actual
45 cost of materials for the license lawfully required by any state agency or
46 department, which costs must be paid to the state. The sheriff must provide
47 the applicant with a copy of the results of the fingerprint-based records
48 check upon request of the applicant.

49 (16) The fee for renewal of the license shall be fifteen dollars
50 (\$15.00), which the sheriff must retain for the purpose of performing the du-

1 ties required in this section. The sheriff may collect the actual cost of any
2 additional fees necessary to cover the processing costs lawfully required by
3 any state or federal agency or department, and the actual cost of materials
4 for the license lawfully required by any state agency or department, which
5 costs must be paid to the state.

6 (17) Every license that is not, as provided by law, suspended, revoked
7 or disqualified in this state shall be renewable at any time during the
8 ninety (90) day period before its expiration or within ninety (90) days after
9 the expiration date. The sheriff must mail renewal notices ninety (90) days
10 prior to the expiration date of the license. The sheriff shall require the
11 licensee applying for renewal to complete an application. The sheriff must
12 submit the application to the Idaho state police for a records check of state
13 and national databases. The Idaho state police must conduct the records
14 check and return the results to the sheriff within thirty (30) days. The
15 sheriff shall not issue a renewal before receiving the results of the records
16 check and must deny a license if the applicant is disqualified under any of
17 the criteria provided in this section. A renewal license shall be valid for
18 a period of five (5) years. A license so renewed shall take effect on the ex-
19 piration date of the prior license. A licensee renewing ninety-one (91) days
20 to one hundred eighty (180) days after the expiration date of the license
21 must pay a late renewal penalty of ten dollars (\$10.00) in addition to the
22 renewal fee unless waived by the sheriff, except that any licensee serving
23 on active duty in the armed forces of the United States during the renewal
24 period shall not be required to pay a late renewal penalty upon renewing
25 ninety-one (91) days to one hundred eighty (180) days after the expiration
26 date of the license. After one hundred eighty-one (181) days, the licensee
27 must submit an initial application for a license and pay the fees prescribed
28 in subsection (15) of this section. The renewal fee and any penalty shall
29 be paid to the sheriff for the purpose of enforcing the provisions of this
30 chapter. Upon renewing a license under the provisions of this section, the
31 sheriff must notify the Idaho state police within five (5) days on a form or
32 in a manner prescribed by the Idaho state police.

33 (18) No city, county or other political subdivision of this state shall
34 modify or add to the requirements of this section, nor shall a city, county
35 or political subdivision ask the applicant to voluntarily submit any infor-
36 mation not required in this section. A civil action may be brought to enjoin
37 a wrongful refusal to issue a license or a wrongful modification of the re-
38 quirements of this section. The civil action may be brought in the county in
39 which the application was made or in Ada county at the discretion of the peti-
40 tioner. Any person who prevails against a public agency in any action in the
41 courts for a violation of this section must be awarded costs, including rea-
42 sonable attorney's fees incurred in connection with the legal action.

43 (19) A county sheriff, deputy sheriff or county employee who issues a
44 license to carry a concealed weapon under this section shall not incur any
45 civil or criminal liability as the result of the performance of his duties in
46 compliance with this section.

47 (20) The sheriff of a county shall issue a license to carry a con-
48 cealed weapon to those individuals between the ages of eighteen (18) and
49 twenty-one (21) years who, except for the age requirement contained in sec-
50 tion 18-3302K(4), Idaho Code, would otherwise meet the requirements for

1 issuance of a license under section 18-3302K, Idaho Code. Licenses issued
2 to individuals between the ages of eighteen (18) and twenty-one (21) years
3 under this subsection shall be easily distinguishable from licenses issued
4 pursuant to subsection (7) of this section. A license issued pursuant to
5 this subsection after July 1, 2016, shall expire on the twenty-first birth-
6 day of the licensee. A licensee, upon attaining the age of twenty-one (21)
7 years, shall be allowed to renew the license under the procedure contained in
8 section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an
9 enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.

10 (21) A person carrying a concealed weapon in violation of the provisions
11 of this section shall be guilty of a misdemeanor.

12 (22) The sheriff of the county where the license was issued or the sher-
13 iff of the county where the person resides shall have the power to revoke a
14 license subsequent to a hearing in accordance with the provisions of chapter
15 52, title 67, Idaho Code, for any of the following reasons:

16 (a) Fraud or intentional misrepresentation in the obtaining of a li-
17 cense;

18 (b) Misuse of a license, including lending or giving a license to an-
19 other person, duplicating a license or using a license with the intent
20 to unlawfully cause harm to a person or property;

21 (c) The doing of an act or existence of a condition that would have been
22 grounds for the denial of the license by the sheriff;

23 (d) The violation of any of the terms of this section; or

24 (e) The applicant is adjudicated guilty of or receives a withheld judg-
25 ment for a crime that would have disqualified him from initially receiv-
26 ing a license.

27 (23) A person twenty-one (21) years of age or older who presents a valid
28 license to carry concealed weapons is exempt from any requirement to undergo
29 a records check at the time of purchase or transfer of a firearm from a feder-
30 ally licensed firearms dealer. Provided however, a temporary emergency li-
31 cense issued pursuant to subsection (6) of this section shall not exempt the
32 holder of the license from any records check requirement.

33 (24) The attorney general must contact the appropriate officials in
34 other states for the purpose of establishing, to the extent possible, recog-
35 nition and reciprocity of the license to carry concealed weapons by other
36 states, whether by formal agreement or otherwise. The Idaho state police
37 must keep a copy and maintain a record of all such agreements and reciprocity
38 recognitions, which must be made available to the public.

39 (25) Nothing in subsection (3) or (4) of this section shall be construed
40 to limit the existing rights of a private property owner, private tenant,
41 private employer or private business entity.

42 (26) The provisions of this section are hereby declared to be severable
43 and if any provision of this section or the application of such provision to
44 any person or circumstance is declared invalid for any reason, such declara-
45 tion shall not affect the validity of remaining portions of this section.

46 SECTION 10. That Section 18-4629, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 18-4629. PENALTY FOR TRANSPORTATION OF FOREST PRODUCTS WITHOUT A PER-
49 MIT, CONTRACT, BILL OF SALE, OR PRODUCT LOAD RECEIPT. Violation of the provi-

1 sions of this section 18-462~~98~~, Idaho Code, shall constitute a misdemeanor,
2 and, upon conviction, be punishable by a fine of not to exceed one thousand
3 dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6)
4 months, or both.

5 SECTION 11. That Section 18-6706, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 18-6706. AUTHORIZATION FOR INTERCEPTION OF WIRE, ELECTRONIC OR ORAL
8 COMMUNICATIONS. The prosecuting attorney of any county is authorized to make
9 application to a judge of competent jurisdiction for an order authorizing or
10 approving the interception of wire, electronic or oral communications and
11 may apply to such judge for, and such judge may grant in conformity with sec-
12 tion ~~2581~~ 2518 of chapter 119, title 18 U.S.C.A., and in conformity with the
13 provisions of this chapter, an order authorizing or approving the intercep-
14 tion of wire, electronic or oral communications by investigative or law en-
15 forcement officers having responsibility for the investigation of the of-
16 fense as to which the application is made, when such interception may provide
17 or has provided evidence of the commission of the offense of murder, kidnap-
18 ping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs,
19 marijuana or other dangerous drugs, or other crime dangerous to life, limb,
20 or property, and punishable by imprisonment for more than one (1) year, or
21 any conspiracy to commit any of the foregoing offenses.

22 SECTION 12. That Section 19-2524, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 19-2524. CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAV-
25 IORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) After
26 a defendant has pled guilty to or been found guilty of a felony, and at any
27 time thereafter while the court exercises jurisdiction over the defendant,
28 behavioral health needs determinations shall be conducted when, and as pro-
29 vided by, this section.

30 (a) As part of the presentence process, a screening to determine
31 whether a defendant is in need of a substance use disorder assessment
32 and/or a mental health examination shall be made in every felony case
33 unless the court waives the requirement for a screening. The screening
34 shall be performed within seven (7) days after the plea of guilty or
35 finding of guilt.

36 (b) At any time after sentencing while the court exercises jurisdiction
37 over the defendant, the court may order such a screening to be performed
38 by individuals authorized or approved by the department of correction
39 if the court determines that one is indicated. The screening shall be
40 performed within seven (7) days after the order of the court requiring
41 such screening.

42 (2) Substance use disorder provisions.

43 (a) Should a screening indicate the need for further assessment of a
44 substance use disorder, the necessary assessment shall be timely per-
45 formed so as to avoid any unnecessary delay in the criminal proceeding
46 and not later than thirty-five (35) days after a plea of guilty or find-
47 ing of guilt or other order of the court requiring such screening. The

1 assessment may be performed by qualified employees of the department of
2 correction or by private providers approved by the department of health
3 and welfare. If the screening or assessment is not timely completed,
4 the court may order that the screening be performed by another qualified
5 provider.

6 (b) Following completion of the assessment, the results of the assess-
7 ment, including a determination of whether the defendant meets diagnos-
8 tic criteria for a substance use disorder and the recommended level of
9 care, shall be submitted to the court as part of the presentence inves-
10 tigation report or other department of correction report to the court.

11 (c) Following the entry of a plea of guilty or a finding of guilt, the
12 court may order, as a condition of the defendant's continued release on
13 bail or on the defendant's own recognizance, that, if the assessment re-
14 flects that the defendant meets diagnostic criteria for a substance use
15 disorder, the defendant shall promptly, and prior to sentencing, begin
16 treatment at the recommended level of care.

17 (d) If the court concludes at sentencing, or at any time after sentenc-
18 ing while the court exercises jurisdiction over the defendant, that
19 the defendant meets diagnostic criteria for a substance use disorder,
20 and if the court places the defendant on probation, the court may order
21 the defendant, as a condition of probation, to undergo treatment at
22 the recommended level of care, subject to modification of the level of
23 care by the court. If substance use disorder treatment is ordered, all
24 treatment shall be performed by a qualified private provider approved
25 by the department of health and welfare. The court may order that, if
26 the level of care placement or the treatment plan is modified in any
27 material term, the department of correction shall notify the court
28 stating the reason for the modifications and informing the court as to
29 the clinical alternatives available to the defendant. The level of care
30 for substance use treatment shall be based upon each probationer's risk
31 assessment with priority given to probationers with high or moderate
32 risk levels.

33 (e) In no event shall the persons or facility doing the substance use
34 assessment be the person or facility that provides the substance use
35 treatment unless this requirement is waived by the court or where the
36 assessment and treatment are provided by or through a federally recog-
37 nized Indian tribe or federal military installation, where diagnosis
38 and treatment are appropriate and available.

39 (f) Defendants who have completed department of correction institu-
40 tional programs may receive ~~after care~~ aftercare services from quali-
41 fied employees of the department of correction.

42 (g) The expenses of all screenings and assessments for substance use
43 disorder provided or ordered under this section shall be borne by the
44 department of correction. The expenses for treatment provided or or-
45 dered under this section shall be borne by the department of correction
46 unless the defendant is placed in a treatment program ~~which~~ that is
47 funded by an alternate source. The department of correction shall be
48 entitled to any payment received by the defendant or to which he may be
49 entitled from any public or private source available to the department
50 of correction for the service provided to the defendant. The department

1 of correction may promulgate rules for a schedule of fees to be charged
2 to the defendant~~s~~ for the substance use disorder assessments and treat-
3 ments provided to the defendant~~s~~ based upon the actual costs of such
4 services and the ability of a the defendant to pay. The department of
5 correction shall use the state-approved financial eligibility form and
6 reimbursement schedule as set forth in IDAPA 16.07.01.

7 (3) Mental health provisions.

8 (a) Should the mental health screening indicate that a serious mental
9 illness may be present, then the department of correction shall refer
10 the defendant to the department of health and welfare for further exam-
11 ination. The examination shall be timely performed so as to avoid any
12 unnecessary delay in the criminal proceeding and not later than thirty-
13 five (35) days after a plea of guilty or finding of guilt or other order
14 of the court requiring such screening.

15 (b) The examination may be performed by qualified department of health
16 and welfare employees or by private providers under contract with the
17 department of health and welfare, provided that such examination shall
18 at a minimum include an in-depth evaluation of the following:

19 (i) Mental health concerns;

20 (ii) Psychosocial risk factors;

21 (iii) Medical, psychiatric, developmental and other relevant his-
22 tory;

23 (iv) Functional impairments;

24 (v) Mental status examination;

25 (vi) Multiaxial diagnoses; and

26 (vii) Any other examinations necessary to provide the court with
27 the information set forth in paragraph (c) of this subsection.

28 (c) Upon completion of the mental health examination, the court shall
29 be provided, as part of the presentence report or other department of
30 health and welfare report to the court, a copy of the mental health as-
31 sessment along with a summary report. The summary report shall include
32 the following:

33 (i) Description and nature of the examination;

34 (ii) Multiaxial diagnoses;

35 (iii) Description of the defendant's diagnosis and if the defen-
36 dant suffers from a serious mental illness (SMI) as that term is
37 now defined, or is hereafter amended, in IDAPA 16.07.33.0101, to
38 also include post-traumatic stress disorder;

39 (iv) An analysis of the degree of impairment due to the defen-
40 dant's diagnosis;

41 (v) Consideration of the risk of danger the defendant may create
42 for the public; and

43 (vi) If the defendant suffers from a serious mental illness, the
44 report shall also include a plan of treatment that addresses the
45 following:

46 1. An analysis of the relative risks and benefits of treat-
47 ment versus nontreatment;

48 2. Types of treatment appropriate for the defendant; and

49 3. Beneficial services to be provided.

1 (d) If the court, after receiving a mental health examination and plan
2 of treatment, determines that additional information is needed regard-
3 ing the mental condition of the defendant or the risk of danger such con-
4 dition may create for the public, the court may order additional evalua-
5 tions and/or recommendations for treatment to be furnished by a psychi-
6 atrist, licensed physician or licensed psychologist.

7 (e) If the court concludes that the defendant suffers from a serious
8 mental illness as defined in paragraph (c) (iii) of this subsection and
9 that treatment is available for such serious mental illness, then the
10 court may order, as a condition of the defendant's release on bail or on
11 the defendant's own recognizance or as a condition of probation, that
12 the defendant undergo treatment consistent with the plan of treatment,
13 subject to modification of the plan of treatment by the court. If the
14 plan of treatment is modified in any material term, the department of
15 health and welfare shall notify the court in a timely manner stating the
16 reasons for the modification and informing the court as to the clinical
17 alternatives available to the defendant.

18 (f) If treatment is ordered, all treatment shall be performed by a
19 provider approved by the department of health and welfare.

20 (g) Mental health examinations and/or treatment provided or ordered
21 under this section shall be secured by the department of health and
22 welfare. The department of health and welfare shall exhaust efforts
23 to assist the defendant in gaining access to health care benefits that
24 will cover the defendant's mental health treatment needs. To the extent
25 that health care benefits are not available to the defendant for the
26 treatment, the expenses for treatment shall be borne by the department
27 of health and welfare. The expenses of all mental health examinations
28 provided or ordered under this section shall be borne by the department
29 of health and welfare. The department of health and welfare shall be
30 entitled to any payment received by the defendant or to which he may be
31 entitled from any public or private source available to the department
32 of health and welfare for the service provided to the defendant. The
33 department of health and welfare is authorized to promulgate rules for
34 a schedule of fees to be charged to the ~~defendants~~ for the mental health
35 examinations and treatments provided to the ~~defendants~~ based upon the
36 actual costs of such services and the ability of ~~a~~ the defendant to
37 pay. The department of health and welfare shall use the state-approved
38 financial eligibility form and reimbursement schedule as set forth in
39 IDAPA 16.07.01. ~~Defendants~~ The defendant shall pay the fee for the men-
40 tal health examinations and treatments consistent with the rules of the
41 department of health and welfare.

42 (4) Unless otherwise ordered by the court, if the defendant is in
43 treatment for a substance use disorder or mental illness, any substance use
44 disorder assessment required under subsection (2) of this section or mental
45 health examination required under subsection (3) of this section need not be
46 performed while the defendant is in such treatment. In such circumstances,
47 the court may make such order as it finds appropriate to facilitate the
48 completion of the sentencing process or other proceeding before the court,
49 including providing for the assessment and treatment records to be included
50 in the presentence investigation report or other report to the court.

1 (5) Any substance use disorder assessment including any recommended
2 level of care or mental health examination including any plan of treatment
3 shall be delivered to the court, the defendant and the prosecuting attorney
4 prior to any sentencing hearing or probation revocation hearing.

5 (6) A substance use disorder assessment prepared pursuant to the provi-
6 sions of this section shall satisfy the requirement of an alcohol evaluation
7 prior to sentencing set forth in section 18-8005(11), Idaho Code, and shall
8 also satisfy the requirement of a substance abuse evaluation prior to sen-
9 tencing set forth in section 37-2738, Idaho Code.

10 (7) If the defendant is sentenced to the custody of the board of correc-
11 tion, then any substance use disorder assessment, mental health examination
12 or plan of treatment shall be sent to the department of correction along with
13 the presentence report.

14 SECTION 13. That Section 20-517, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall
17 provide a detention center for the detention of juvenile offenders to be con-
18 ducted by the court, or, subject to the approval of the court, by other ap-
19 propriate public agency, provided that such detention shall comply with the
20 provisions of section 20-518, Idaho Code, ~~+~~ or within the limits of funds pro-
21 vided by the county commissioners.

22 (2) For the purpose of carrying out the provisions of this section,
23 the county commissioners may enter into contracts or agreements with pub-
24 lic or private agencies, individuals, other counties, or the department of
25 juvenile corrections, which may include the expenditures of moneys outside
26 the county boundaries. If the county in which the court is located has made
27 an agreement with another governmental unit or agency located outside the
28 county or the judicial district for the detention of juvenile offenders
29 under this act, then any court in the county may order a juvenile offender
30 detained outside of the county or outside of the judicial district in the
31 detention center described in such agreement. All detention centers in this
32 section shall be in compliance with section 20-518, Idaho Code, and IDAPA
33 ~~11.11.02~~ 05.01.02.

34 (3) The county wherein any court has entered an order for the detention
35 of a juvenile offender outside of the county or outside of the judicial dis-
36 trict as provided by subsection (2) of this section shall pay all direct and
37 indirect costs of the detention of the juvenile offender to the governmental
38 unit or agency owning or operating the detention center in which the juvenile
39 offender was detained. The amount of such cost may be determined by agree-
40 ment between the county wherein the court entered the order of detention and
41 the county or governmental unit or agency owning or operating such detention
42 center.

43 (4) All moneys appropriated by the state for the planning and design of
44 regional detention centers shall be administered and distributed by the di-
45 rector of the department of administration for the planning and design of re-
46 gional detention centers in accordance with the requirements or directives
47 of such appropriation. In administering such moneys, the director of the
48 department of administration shall consult with the designated county offi-
49 cials of every county involved or affected by a proposed regional detention

1 center and shall abide by the decision of the designated representatives of
2 each of the counties so involved or affected.

3 SECTION 14. That Section 23-1325A, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 23-1325A. SERVICES PERMITTED INCIDENT TO STOCKING, ROTATION AND RE-
6 STOCKING OF WINE. For the purposes of section 23-1325-~~(1)(e)~~(4), Idaho Code,
7 a distributor may, with the permission of the retailer, and in accordance
8 with space allocations directed by the retailer, set, remove, replace, re-
9 set or relocate all wine upon the shelves of the retailer. Labor performed or
10 schematics prepared by the distributor relating to conduct authorized pur-
11 suant to the provisions of this section shall not constitute prohibited con-
12 duct or unlawful aid to a retailer.

13 SECTION 15. That Section 26-206, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 26-206. PREFERRED STOCK. (1) Subject to the provisions of the bank
16 act, and by and with the approval and consent of the director, any bank now
17 or hereafter incorporated under the laws of this state, may issue such part
18 of its capital as is approved by the director, as preferred stock having
19 such special rights, preferences, privileges, immunities, qualifications
20 and restrictions as to voting, dividends, redemption, retirement, partic-
21 ipation in corporate assets, not common to other stock, as provided in its
22 articles of incorporation as hereafter adopted or amended, and as are not
23 inconsistent with the provisions of the bank act and the provisions of its
24 articles of incorporation or amendments thereto.

25 (2) Dividends on preferred stock may be declared and paid only from net
26 profits as defined by section ~~26-503~~ 26-106, Idaho Code, but such net profits
27 may be current profits or those accumulated as surplus. No dividend shall be
28 declared nor paid, any retirement or redemption of such stock be made, nor
29 any other distribution or payment of corporate assets made thereon or there-
30 for at any time when the total common stock and surplus is below or will be
31 thereby reduced below the minimum common stock required by law plus a surplus
32 fund equal to ten percent (10%) of such minimum common stock or the amount of
33 common stock required by the director at the time the bank's charter was is-
34 sued plus a surplus fund equal to ten percent (10%) of such required common
35 stock.

36 (3) Preferred stock under the provisions of this act must be subscribed
37 and paid for at not less than par value.

38 (4) Except as otherwise provided in the bank's articles of incorpora-
39 tion or by the bank act, preferred stock authorized by this act is capital and
40 shall be considered as such in computing the capital structure of the bank
41 within the meaning of all provisions of the bank act.

42 SECTION 16. That Section 28-4-613, Idaho Code, be, and the same is
43 hereby amended to read as follows:

44 28-4-613. ERRONEOUS PAYMENT ORDERS. (1) If an accepted payment order
45 was transmitted pursuant to a security procedure for the detection of error

1 and the payment order (i) erroneously instructed payment to a beneficiary
 2 not intended by the sender, (ii) erroneously instructed payment in an amount
 3 greater than the amount intended by the sender, or (iii) was an erroneously
 4 transmitted duplicate of a payment order previously sent by the sender, the
 5 following rules apply:

6 (a) If the sender proves that the sender or a person acting on behalf of
 7 the sender pursuant to section 28-4-614, Idaho Code, complied with the
 8 security procedure and that the error would have been detected if the
 9 receiving bank had also complied, the sender is not obliged to pay the
 10 order to the extent stated in ~~subsections~~ paragraphs (2b) and (3c) of
 11 this subsection.

12 (b) If the funds transfer is completed on the basis of an erroneous pay-
 13 ment order described in clause (i) or (iii) of this subsection ~~(1) of~~
 14 ~~this section~~, the sender is not obliged to pay the order and the receiv-
 15 ing bank is entitled to recover from the beneficiary any amount paid to
 16 the beneficiary to the extent allowed by the law governing mistake and
 17 restitution.

18 (c) If the funds transfer is completed on the basis of a payment or-
 19 der described in clause (ii) of this subsection ~~(1)~~ of this section, the
 20 sender is not obliged to pay the order to the extent the amount received
 21 by the beneficiary is greater than the amount intended by the sender. In
 22 that case, the receiving bank is entitled to recover from the benefi-
 23 ciary the excess amount received to the extent allowed by the law gov-
 24 erning mistake and restitution.

25 (2) If (i) the sender of an erroneous payment order described in subsec-
 26 tion (1) of this section is not obliged to pay all or part of the order, and
 27 (ii) the sender receives notification from the receiving bank that the order
 28 was accepted by the bank or that the sender's account was debited with re-
 29 spect to the order, the sender has a duty to exercise ordinary care, on the
 30 basis of information available to the sender, to discover the error with re-
 31 spect to the order and to advise the bank of the relevant facts within a rea-
 32 sonable time, not exceeding ninety (90) days, after the bank's notification
 33 was received by the sender. If the bank proves that the sender failed to per-
 34 form that duty, the sender is liable to the bank for the loss the bank proves
 35 it incurred as a result of the failure, but the liability of the sender may
 36 not exceed the amount of the sender's order.

37 (3) This section applies to amendments to payment orders to the same ex-
 38 tent it applies to payment orders.

39 SECTION 17. That Section 30-14-411, Idaho Code, be, and the same is
 40 hereby amended to read as follows:

41 30-14-411. POSTREGISTRATION REQUIREMENTS. (a) Financial require-
 42 ments. Subject to section 15(h) of the securities exchange act of 1934 (15
 43 U.S.C. 78o(h)) or section 222 of the investment advisers act of 1940 (15
 44 U.S.C. 80b-~~2218a~~), a rule adopted or an order issued under this chapter may
 45 establish minimum financial requirements for broker-dealers registered or
 46 required to be registered under this chapter and investment advisers regis-
 47 tered or required to be registered under this chapter.

48 (b) Financial reports. Subject to section 15(h) of the securities ex-
 49 change act of 1934 (15 U.S.C. 78o(h)) or section 222(b) of the investment ad-

1 visers act of 1940 (15 U.S.C. 80b-2218a), a broker-dealer registered or re-
2 quired to be registered under this chapter and an investment adviser regis-
3 tered or required to be registered under this chapter shall file such finan-
4 cial reports as are required by a rule adopted or an order issued under this
5 chapter. If the information contained in a record filed under this subsec-
6 tion is or becomes inaccurate or incomplete in a material respect, the regis-
7 trant shall promptly file a correcting amendment.

8 (c) Recordkeeping. Subject to section 15(h) of the securities exchange
9 act of 1934 (15 U.S.C. 78o(h)) or section 222 of the investment advisers act
10 of 1940 (15 U.S.C. 80b-2218a):

11 (1) A broker-dealer registered or required to be registered under
12 this chapter and an investment adviser registered or required to be
13 registered under this chapter shall make and maintain the accounts,
14 correspondence, memoranda, papers, books and other records required by
15 a rule adopted or an order issued under this chapter;

16 (2) Broker-dealer records required to be maintained under subsection
17 (c) (1) of this section may be maintained in any form of data storage ac-
18 ceptable under section 17(a) of the securities exchange act of 1934 (15
19 U.S.C. 78q(a)) if they are readily accessible to the administrator; and

20 (3) Investment adviser records required to be maintained under subsec-
21 tion (c) (1) of this section may be maintained in any form of data storage
22 required by a rule adopted or an order issued under this chapter.

23 (d) Audits or inspections. The records of every person issuing or guar-
24 anteeing any securities subject to the provisions of this chapter, if such
25 person is registered or required to be registered under this chapter, and of
26 every broker-dealer, agent, investment adviser or investment adviser rep-
27 resentative registered or required to be registered under this chapter are
28 subject to such reasonable periodic, special or other audits or inspections
29 by a representative of the administrator, within or without this state, as
30 the administrator considers necessary or appropriate in the public interest
31 and for the protection of investors. An audit or inspection may be made at
32 any time and without prior notice. The administrator may copy, and may re-
33 move for audit or inspection copies of, all records the administrator rea-
34 sonably considers necessary or appropriate to conduct the audit or inspec-
35 tion. The administrator may assess a reasonable charge for conducting an au-
36 dit or inspection under this subsection.

37 (e) Custody and discretionary authority bond or insurance. Subject to
38 section 15(h) of the securities exchange act of 1934 (15 U.S.C. 78o(h)) or
39 section 222 of the investment advisers act of 1940 (15 U.S.C. 80b-2218a),
40 a rule adopted or an order issued under this chapter may require a broker-
41 dealer or investment adviser that has custody of or discretionary author-
42 ity over funds or securities of a customer or client to obtain insurance or
43 post a bond or other satisfactory form of security in an amount not to ex-
44 ceed twenty-five thousand dollars (\$25,000). The administrator may deter-
45 mine the requirements of the insurance, bond or other satisfactory form of
46 security. Insurance or a bond or other satisfactory form of security may not
47 be required of a broker-dealer registered under this chapter whose net capi-
48 tal exceeds, or of an investment adviser registered under this chapter whose
49 minimum financial requirements exceed, the amounts required by rule or order
50 under this chapter. The insurance, bond or other satisfactory form of secu-

1 rity must permit an action by a person to enforce any liability on the insur-
 2 ance, bond or other satisfactory form of security if instituted within the
 3 time limitations in section 30-14-509(j) (2), Idaho Code.

4 (f) Requirements for custody. Subject to section 15(h) of the securi-
 5 ties exchange act of 1934 (15 U.S.C. 78o(h)) or section 222 of the invest-
 6 ment advisers act of 1940 (15 U.S.C. 80b-~~2218a~~), an agent may not have cus-
 7 tody of funds or securities of a customer except under the supervision of a
 8 broker-dealer and an investment adviser representative may not have custody
 9 of funds or securities of a client except under the supervision of an invest-
 10 ment adviser or a federal covered investment adviser. A rule adopted or an
 11 order issued under this chapter may prohibit, limit, or impose conditions on
 12 a broker-dealer regarding custody of funds or securities of a customer and on
 13 an investment adviser regarding custody of securities or funds of a client.

14 (g) Investment adviser brochure rule. With respect to an investment
 15 adviser registered or required to be registered under this chapter, a rule
 16 adopted or an order issued under this chapter may require that information or
 17 other record be furnished or disseminated to clients or prospective clients
 18 in this state as necessary or appropriate in the public interest and for the
 19 protection of investors and advisory clients.

20 (h) Continuing education. A rule adopted or an order issued under
 21 this chapter may require an individual registered under section 30-14-402
 22 or 30-14-404, Idaho Code, to participate in a continuing education program
 23 approved by the securities and exchange commission and administered by a
 24 self-regulatory organization or, in the absence of such a program, a rule
 25 adopted or an order issued under this chapter may require continuing educa-
 26 tion for an individual registered under section 30-14-404, Idaho Code.

27 SECTION 18. That Section 30-23-102, Idaho Code, be, and the same is
 28 hereby amended to read as follows:

29 30-23-102. DEFINITIONS. (a) In this chapter:

30 (1) "Business" includes every trade, occupation and profession.

31 (2) "Contribution," except in the phrase "right of contribution,"
 32 means property or a benefit described in section 30-23-403, Idaho Code,
 33 that is provided by a person to a partnership to become a partner or in
 34 the person's capacity as a partner.

35 (3) "Distribution" means a transfer of money or other property from a
 36 partnership to a person on account of a transferable interest or in a
 37 person's capacity as a partner. The term:

38 (A) Includes:

39 (i) A redemption or other purchase by a partnership of a
 40 transferable interest; and

41 (ii) A transfer to a partner in return for the partner's re-
 42 linquishment of any right to participate as a partner in the
 43 management or conduct of the partnership's business or have
 44 access to records or other information concerning the part-
 45 nership's business; and

46 (B) Does not include amounts constituting reasonable compensa-
 47 tion for present or past service or payments made in the ordinary
 48 course of business under a bona fide retirement plan or other bona
 49 fide benefits program.

1 (4) "Foreign limited liability partnership" means a foreign partner-
 2 ship whose partners have limited liability for the debts, obligations,
 3 or other liabilities of the foreign partnership under a provision simi-
 4 lar to section 30-23-306(c), Idaho Code.

5 (5) "Foreign partnership" means an unincorporated entity formed under
 6 the law of a jurisdiction other than this state which would be a partner-
 7 ship if formed under the law of this state. The term includes a foreign
 8 limited liability partnership.

9 (6) "Limited liability partnership" means a partnership that has filed
 10 a statement of qualification under section ~~30-21-503~~ 30-23-901, Idaho
 11 Code, and does not have a similar statement in effect in any other juris-
 12 diction.

13 (7) "Partner" means a person that:

14 (A) Has become a partner in a partnership under section 30-23-402,
 15 Idaho Code, or was a partner in a partnership when the partner-
 16 ship became subject to this chapter under section 30-23-110, Idaho
 17 Code; and

18 (B) Has not dissociated as a partner under section 30-23-601,
 19 Idaho Code.

20 (8) "Partnership" means an association of two (2) or more persons to
 21 carry on as co-owners a business for profit formed under this chapter or
 22 that becomes subject to this chapter under ~~article part 2 of this chap-~~
 23 ter or section 30-23-110, Idaho Code. The term includes a limited lia-
 24 bility partnership.

25 (9) "Partnership agreement" means the agreement, whether or not re-
 26 ferred to as a partnership agreement and whether oral, implied, in
 27 a record, or in any combination thereof, of all the partners of a
 28 partnership concerning the matters described in section ~~33-22-105~~
 29 30-23-105(a), Idaho Code. The term includes the agreement as amended or
 30 restated.

31 (10) "Partnership at will" means a partnership in which the partners
 32 have not agreed to remain partners until the expiration of a definite
 33 term or the completion of a particular undertaking.

34 (11) "Transferable interest" means the right, as initially owned by
 35 a person in the person's capacity as a partner, to receive distribu-
 36 tions from a partnership in accordance with the partnership agreement,
 37 whether or not the person remains a partner or continues to own any
 38 part of the right. The term applies to any fraction of the interest, by
 39 whomever owned.

40 (12) "Transferee" means a person to which all or part of a transferable
 41 interest has been transferred, whether or not the transferor is a part-
 42 ner.

43 (b) The following definitions outside this chapter apply to this chap-
 44 ter:

45 (1) "Debtor in bankruptcy" - section 30-21-102(7), Idaho Code.

46 (2) "Jurisdiction" - section 30-21-102(22), Idaho Code.

47 (3) "Jurisdiction of formation" - section 30-21-102(23), Idaho Code.

48 (4) "Person" - section 30-21-102(35), Idaho Code.

49 (5) "Principal office" - section 30-21-102(36), Idaho Code.

50 (6) "Property" - section 30-21-102(41), Idaho Code.

- 1 (7) "Record" - section 30-21-102(44), Idaho Code.
 2 (8) "Registered agent" - section 30-21-102(45), Idaho Code.
 3 (9) "Sign" - section 30-21-102(47), Idaho Code.
 4 (10) "State" - section 30-21-102(48), Idaho Code.
 5 (11) "Transfer" - section 30-21-102(50), Idaho Code.

6 SECTION 19. That Section 30-23-103, Idaho Code, be, and the same is
 7 hereby amended to read as follows:

8 30-23-103. KNOWLEDGE -- NOTICE. (a) A person knows a fact if the per-
 9 son:

- 10 (1) Has actual knowledge of it; or
 11 (2) Is deemed to know it under subsection (d) (1) of this section or law
 12 other than this chapter.

13 (b) A person has notice of a fact if the person:

- 14 (1) Has reason to know the fact from all the facts known to the person at
 15 the time in question; or
 16 (2) As deemed to have notice of the fact under subsection (d) (2) of this
 17 section.

18 (c) Subject to section 30-21-212, Idaho Code, a person notifies another
 19 person of a fact by taking steps reasonably required to inform the other per-
 20 son in ordinary course, whether or not those steps cause the other person to
 21 know the fact.

22 (d) A person not a partner is deemed:

- 23 (1) To know of a limitation on authority to transfer real property as
 24 provided in section 30-23-303(g), Idaho Code; and
 25 (2) To have notice of:

26 (A) A person's dissociation as a partner ninety (90) days after
 27 a statement of dissociation under section 30-23-704, Idaho Code,
 28 becomes effective; and

29 (B) A partnership's:

30 (i) Dissolution ninety (90) days after a statement of dis-
 31 solution under section 30-23-802, Idaho Code, becomes ef-
 32 fective;

33 (ii) Termination ninety (90) days after a statement of ter-
 34 mination under section 30-23-802, Idaho Code, becomes ef-
 35 fective; and

36 (iii) Participation in a merger, interest exchange, con-
 37 version, or domestication ninety (90) days after articles
 38 of merger, interest exchange, conversion, or domestication
 39 under chapter 24~~2~~, title 30, Idaho Code, become effective.

40 (e) A partner's knowledge or notice of a fact relating to the partner-
 41 ship is effective immediately as knowledge of or notice to the partnership,
 42 except in the case of a fraud on the partnership committed by or with the con-
 43 sent of that partner.

44 SECTION 20. That Section 30-23-107, Idaho Code, be, and the same is
 45 hereby amended to read as follows:

46 30-23-107. PARTNERSHIP AGREEMENT -- EFFECT ON THIRD PARTIES AND RELA-
 47 TIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF PARTNERSHIP. (a) A partnership

1 agreement may specify that its amendment requires the approval of a person
 2 that is not a party to the agreement or the satisfaction of a condition. An
 3 amendment is ineffective if its adoption does not include the required ap-
 4 proval or satisfy the specified condition.

5 (b) The obligations of a partnership and its partners to a person in the
 6 person's capacity as a transferee or person dissociated as a partner are gov-
 7 erned by the partnership agreement. Subject only to a court order issued un-
 8 der section 30-23-504(b)(2), Idaho Code, to effectuate a charging order, an
 9 amendment to the partnership agreement made after a person becomes a trans-
 10 feree or is dissociated as a partner:

11 (1) Is effective with regard to any debt, obligation, or other liabil-
 12 ity of the partnership or its partners to the person in the person's ca-
 13 pacity as a transferee or person dissociated as a partner; and

14 (2) Is not effective to the extent the amendment:

15 (A) Imposes a new debt, obligation, or other liability on the
 16 transferee or person dissociated as a partner; or

17 (B) Prejudices the rights under section 30-23-701, Idaho Code,
 18 of a person that dissociated as a partner before the amendment was
 19 made.

20 (c) If a record delivered by a partnership to the secretary of state for
 21 filing becomes effective under this chapter and contains a provision that
 22 would be ineffective under section ~~33-22-105~~ 30-23-105(c) or (d)(3), Idaho
 23 Code, if contained in the partnership agreement, the provision is ineffec-
 24 tive in the record.

25 (d) Subject to subsection (c) of this section, if a record delivered by
 26 a partnership to the secretary of state for filing becomes effective and con-
 27 flicts with a provision of the partnership agreement:

28 (1) The agreement prevails as to partners, persons dissociated as part-
 29 ners, and transferees; and

30 (2) The record prevails as to other persons to the extent they reason-
 31 ably rely on the record.

32 SECTION 21. That Section 30-23-109, Idaho Code, be, and the same is
 33 hereby amended to read as follows:

34 30-23-109. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. (a)
 35 If a record delivered to the secretary of state for filing under this act and
 36 filed by the secretary of state contains inaccurate information, a person
 37 that suffers loss by reliance on the information may recover damages for the
 38 loss from a partner if:

39 (1) A person ~~that~~ signed the record, or caused another to sign it on the
 40 person's behalf, and knew the information to be inaccurate at the time
 41 the record was signed; and

42 (2) Subject to subsection (b) of this section:

43 (A) The record was delivered for filing on behalf of the partner-
 44 ship; and

45 (B) The partner had notice of the inaccuracy for a reasonably suf-
 46 ficient time before the information was relied upon so that, be-
 47 fore the reliance, the partner reasonably could have:

48 (i) Effected an amendment under section 30-23-901(f),
 49 Idaho Code;

1 (ii) Filed a petition under section ~~30-23-112~~ 30-21-210,
2 Idaho Code; or

3 (iii) Delivered to the secretary of state for filing a state-
4 ment of change under section ~~30-23-906~~ 30-21-407, Idaho
5 Code, or a statement of correction under section ~~30-23-116~~
6 30-21-205, Idaho Code.

7 (b) To the extent the partnership agreement expressly relieves a part-
8 ner of responsibility for maintaining the accuracy of information contained
9 in records delivered on behalf of the partnership to the secretary of state
10 for filing under this act and imposes that responsibility on one (1) or more
11 other partners, the liability stated in subsection (a) (2) of this section
12 applies to those other partners and not to the partner that the partnership
13 agreement relieves of the responsibility.

14 (c) An individual who signs a record authorized or required to be filed
15 under this act affirms under penalty of perjury that the information stated
16 in the record is accurate.

17 SECTION 22. That Section 30-23-111, Idaho Code, be, and the same is
18 hereby amended to read as follows:

19 30-23-111. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects
20 are covered outside this chapter:

- 21 (1) Delivery of record - section 30-21-104, Idaho Code.
22 (2) Signing and filing pursuant to judicial order - section 30-21-210,
23 Idaho Code.
24 (3) Filing requirements - section 30-21-201, Idaho Code.
25 (4) Effective date and time - section 30-21-203, Idaho Code.
26 (5) Withdrawal of filed record before effectiveness - section 30-21-
27 204, Idaho Code.
28 (6) Correcting filed record - section 30-21-205, Idaho Code.
29 (7) Duty of secretary of state to file; review of refusal to file; de-
30 livery of record by secretary of state - sections 30-21-206 and 30-21-214~~2~~,
31 Idaho Code.
32 (8) Reservation of power to amend or repeal - section 30-21-701, Idaho
33 Code.
34 (9) Supplemental principles of law - section 30-21-702, Idaho Code.

35 SECTION 23. That Section 30-23-401, Idaho Code, be, and the same is
36 hereby amended to read as follows:

37 30-23-401. PARTNER'S RIGHTS AND DUTIES. (a) Each partner is entitled
38 to an equal share of the partnership profits and, except in the case of a lim-
39 ited liability partnership, is chargeable with a share of the partnership
40 losses in proportion to the partner's share of the profits.

41 (b) A partnership shall reimburse a partner for any payment made by the
42 partner in the course of the partner's activities on behalf of the partner-
43 ship, if the partner complied with this section and section 30-23-409, Idaho
44 Code, in making the payment.

45 (c) A partnership shall indemnify and hold harmless a person with re-
46 spect to any claim or demand against the person and any debt, obligation,
47 or other liability incurred by the person by reason of the person's former

1 or present capacity as partner, if the claim, demand, debt, obligation, or
 2 other liability does not arise from the person's breach of this section or
 3 section 30-23-407 or 30-23-409, Idaho Code.

4 (d) In the ordinary course of its business, a partnership may advance
 5 reasonable expenses, including attorney's fees and costs, incurred by a per-
 6 son in connection with a claim or demand against the person by reason of the
 7 person's former or present capacity as a partner, if the person promises to
 8 repay the partnership if the person ultimately is determined not to be enti-
 9 tled to be indemnified under subsection (c) of this section.

10 (e) A partnership may purchase and maintain insurance on behalf of a
 11 partner against liability asserted against or incurred by the partner in
 12 that capacity or arising from that status even if, under section ~~33-22-105~~
 13 30-23-105(c) (7), Idaho Code, the partnership agreement could not eliminate
 14 or limit the person's liability to the partnership for the conduct giving
 15 rise to the liability.

16 (f) A partnership shall reimburse a partner for an advance to the part-
 17 nership beyond the amount of capital the partner agreed to contribute.

18 (g) A payment or advance made by a partner which gives rise to a part-
 19 nership obligation under subsection (b) or (f) of this section constitutes a
 20 loan to the partnership which accrues interest from the date of the payment
 21 or advance.

22 (h) Each partner has equal rights in the management and conduct of the
 23 partnership's business.

24 (i) A partner may use or possess partnership property only on behalf of
 25 the partnership.

26 (j) A partner is not entitled to remuneration for services performed
 27 for the partnership, except for reasonable compensation for services ren-
 28 dered in winding up the business of the partnership.

29 (k) A difference arising as to a matter in the ordinary course of busi-
 30 ness of a partnership may be decided by a majority of the partners. An act
 31 outside the ordinary course of business of a partnership, and an amendment to
 32 the partnership agreement, may be undertaken only with the affirmative vote
 33 or consent of all of the partners.

34 SECTION 24. That Section 30-23-402, Idaho Code, be, and the same is
 35 hereby amended to read as follows:

36 30-23-402. BECOMING PARTNER. (a) Upon formation of a partnership, a
 37 person becomes a partner under section 30-23-202 (a), Idaho Code.

38 (b) After formation of a partnership, a person becomes a partner:

39 (1) As provided in the partnership agreement;

40 (2) As a result of a transaction effective under chapter 21~~2~~, title 30,
 41 Idaho Code; or

42 (3) With the affirmative vote or consent of all the partners.

43 (c) A person may become a partner without:

44 (1) Acquiring a transferable interest; or

45 (2) Making or being obligated to make a contribution to the partner-
 46 ship.

47 SECTION 25. That Section 30-23-406, Idaho Code, be, and the same is
 48 hereby amended to read as follows:

1 30-23-406. LIMITATIONS ON DISTRIBUTIONS BY LIMITED LIABILITY PART-
2 NERSHIP. (a) A limited liability partnership may not make a distribution,
3 including a distribution under section 30-23-806, Idaho Code, if after the
4 distribution:

5 (1) The partnership would not be able to pay its debts as they become due
6 in the ordinary course of the partnership's business; or

7 (2) The partnership's total assets would be less than the sum of its to-
8 tal liabilities plus the amount that would be needed, if the partner-
9 ship were to be dissolved and wound up at the time of the distribution,
10 to satisfy the preferential rights upon dissolution and winding up of
11 partners and transferees whose preferential rights are superior to the
12 rights of persons receiving the distribution.

13 (b) A limited liability partnership may base a determination that a
14 distribution is not prohibited under subsection (a) of this section on:

15 (1) Financial statements prepared on the basis of accounting practices
16 and principles that are reasonable in the circumstances; or

17 (2) A fair valuation or other method that is reasonable under the cir-
18 cumstances.

19 (c) Except as otherwise provided in subsection (e) of this section, the
20 effect of a distribution under subsection (a) of this section is measured:

21 (1) In the case of a distribution as defined in section 30-23-
22 102(4a) (3) (A), Idaho Code, as of the earlier of:

23 (A) The date money or other property is transferred or debt is in-
24 curred by the limited liability partnership; or

25 (B) The date the person entitled to the distribution ceases to own
26 the interest or rights being acquired by the partnership in return
27 for the distribution;

28 (2) In the case of any other distribution of indebtedness, as of the
29 date the indebtedness is distributed; and

30 (3) In all other cases, as of the date:

31 (A) The distribution is authorized, if the payment occurs not
32 later than one hundred twenty (120) days after that date; or

33 (B) The payment is made, if the payment occurs more than one hun-
34 dred twenty (120) days after the distribution is authorized.

35 (d) A limited liability partnership's indebtedness to a partner or
36 transferee incurred by reason of a distribution made in accordance with this
37 section is at parity with the partnership's indebtedness to its general,
38 unsecured creditors, except to the extent subordinated by agreement.

39 (e) A limited liability partnership's indebtedness, including indebt-
40 edness issued as a distribution, is not a liability for purposes of subsec-
41 tion (a) of this section if the terms of the indebtedness provide that pay-
42 ment of principal and interest is made only if and to the extent that a pay-
43 ment of a distribution could then be made under this section. If the indebt-
44 edness is issued as a distribution, each payment of principal or interest is
45 treated as a distribution, the effect of which is measured on the date the
46 payment is made.

47 (f) In measuring the effect of a distribution under section 30-23-806,
48 Idaho Code, the liabilities of a dissolved limited liability partnership
49 do not include any claim that has been disposed of under section 30-23-807,
50 30-23-808 or 30-23-809, Idaho Code.

1 SECTION 26. That Section 30-23-601, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 30-23-601. EVENTS CAUSING DISSOCIATION. A person is dissociated as a
4 partner when:

5 (1) The partnership has notice of the person's express will to withdraw
6 as a partner, but, if the person has specified a withdrawal date later than
7 the date the partnership knew or had notice, on that later date;

8 (2) An event stated in the partnership agreement as causing the per-
9 son's dissociation occurs;

10 (3) The person is expelled as a partner pursuant to the partnership
11 agreement;

12 (4) The person is expelled as a partner by the affirmative vote or con-
13 sent of all the other partners if:

14 (A) It is unlawful to carry on the partnership business with the person
15 as a partner;

16 (B) There has been a transfer of all of the person's transferable inter-
17 est in the partnership other than:

18 (i) A transfer for security purposes; or

19 (ii) A charging order in effect under section 30-23-504, Idaho
20 Code, that has not been foreclosed;

21 (C) The person is an entity and:

22 (i) The partnership notifies the person that it will be expelled
23 as a partner because the person has filed a statement of dissolu-
24 tion or the equivalent, the person has been administratively dis-
25 solved, the person's charter or the equivalent has been revoked,
26 or the person's right to conduct business has been suspended by the
27 person's jurisdiction of formation; and

28 (ii) Not later than ninety (90) days after the notification, the
29 statement of dissolution or the equivalent has not been withdrawn,
30 rescinded or revoked or the person's charter or the equivalent or
31 right to conduct business has not been reinstated; or

32 (D) The person is an unincorporated entity that has been dissolved and
33 whose activities and affairs are being wound up;

34 (5) On application by the partnership or another partner, the person is
35 expelled as a partner by judicial order because the person:

36 (A) Has engaged or is engaging in wrongful conduct that has affected
37 adversely and materially, or will affect adversely and materially, the
38 partnership's business;

39 (B) Has committed willfully or persistently, or is committing will-
40 fully or persistently, a material breach of the partnership agreement
41 or a duty or obligation under section 30-23-409, Idaho Code; or

42 (C) Has engaged or is engaging in conduct relating to the partnership's
43 business which makes it not reasonably practicable to carry on the busi-
44 ness with the person as a partner;

45 (6) The person:

46 (A) Becomes a debtor in bankruptcy;

47 (B) Executes an assignment for the benefit of creditors; or

- 1 (C) Seeks, consents to, or acquiesces in the appointment of a trustee,
 2 receiver, or liquidator of the person or of all or substantially all the
 3 person's property;
 4 (7) In the case of an individual:
 5 (A) The individual dies;
 6 (B) A guardian or general conservator for the individual is appointed;
 7 or
 8 (C) A court orders that the individual has otherwise become incapable
 9 of performing the individual's duties as a partner under this chapter or
 10 the partnership agreement;
 11 (8) In the case of a person that is a testamentary or inter vivos trust
 12 or is acting as a partner by virtue of being a trustee of such a trust, the
 13 trust's entire transferable interest in the partnership is distributed;
 14 (9) In the case of a person that is an estate or is acting as a partner by
 15 virtue of being a personal representative of an estate, the estate's entire
 16 transferable interest in the partnership is distributed;
 17 (10) In the case of a person that is not an individual, the existence of
 18 the person terminates;
 19 (11) The partnership participates in a merger under chapter 212, title
 20 30, Idaho Code, and:
 21 (A) The partnership is not the surviving entity; or
 22 (B) Otherwise as a result of the merger, the person ceases to be a part-
 23 ner;
 24 (12) The partnership participates in an interest exchange under chap-
 25 ter 212, title 30, Idaho Code, and, as a result of the interest exchange, the
 26 person ceases to be a partner;
 27 (13) The partnership participates in a conversion under chapter 212,
 28 title 30, Idaho Code;
 29 (14) The partnership participates in a domestication under chapter
 30 212, title 30, Idaho Code, and, as a result of the domestication, the person
 31 ceases to be a partner;
 32 (15) The partnership dissolves and completes winding up;
 33 (16) In the case of a professional entity, restrictions or limitations
 34 are placed upon a partner's ability to continue to render professional ser-
 35 vices.

36 SECTION 27. That Section 30-23-702, Idaho Code, be, and the same is
 37 hereby amended to read as follows:

- 38 30-23-702. POWER TO BIND AND LIABILITY OF PERSON DISSOCIATED AS PART-
 39 NER. (a) After a person is dissociated as a partner without the dissociation
 40 resulting in a dissolution and winding up of the partnership business and be-
 41 fore the partnership is merged out of existence, converted, or domesticated
 42 under chapter 212, title 30, Idaho Code, or dissolved, the partnership is
 43 bound by an act of the person only if:
 44 (1) The act would have bound the partnership under section 30-23-301,
 45 Idaho Code, before dissociation; and
 46 (2) At the time the other party enters into the transaction:
 47 (A) Less than two (2) years has passed since the dissociation; and
 48 (B) The other party does not know or have notice of the dissocia-
 49 tion and reasonably believes that the person is a partner.

1 (b) If a partnership is bound under subsection (a) of this section, the
 2 person dissociated as a partner that caused the partnership to be bound is
 3 liable:

4 (1) To the partnership for any damage caused to the partnership arising
 5 from the obligation incurred under subsection (a) of this section; and

6 (2) If a partner or another person dissociated as a partner is liable
 7 for the obligation, to the partner or other person for any damage caused
 8 to the partner or other person arising from the liability.

9 SECTION 28. That Section 30-23-803, Idaho Code, be, and the same is
 10 hereby amended to read as follows:

11 30-23-803. RESCINDING DISSOLUTION. (a) A partnership may rescind its
 12 dissolution, unless a statement of termination applicable to the partner-
 13 ship is effective or the district court has entered an order under section
 14 30-23-801(4) or (5), Idaho Code, dissolving the partnership.

15 (b) Rescinding dissolution under this section requires:

16 (1) The affirmative vote or consent of each partner;

17 (2) If the partnership has delivered to the secretary of state for fil-
 18 ing a statement of dissolution and:

19 (A) The statement of dissolution has not become effective, deliv-
 20 ery to the secretary of state for filing of a statement of with-
 21 drawal under section ~~30-21-114~~ 30-21-204, Idaho Code, applicable
 22 to the statement of dissolution; or

23 (B) If a statement of dissolution applicable to the partnership
 24 is effective, the delivery to the secretary of state for filing of
 25 a statement of recession stating the name of the partnership and
 26 that dissolution has been rescinded under this section.

27 (c) If a partnership rescinds its dissolution:

28 (1) The partnership resumes carrying on its business as if dissolution
 29 had never occurred;

30 (2) Subject to paragraph (3) of this subsection, any liability incurred
 31 by the partnership after the dissolution and before the rescission is
 32 effective is determined as if dissolution had never occurred; and

33 (3) The rights of a third party arising out of conduct in reliance on the
 34 dissolution before the third party knew or had notice of the rescission
 35 may not be adversely affected.

36 SECTION 29. That Section 30-23-901, Idaho Code, be, and the same is
 37 hereby amended to read as follows:

38 30-23-901. STATEMENT OF QUALIFICATION. (a) A partnership may become a
 39 limited liability partnership pursuant to this section.

40 (b) The terms and conditions on which a partnership becomes a limited
 41 liability partnership must be approved by the affirmative vote or consent
 42 necessary to amend the partnership agreement except, in the case of a part-
 43 nership agreement that expressly addresses obligations to contribute to the
 44 partnership, the affirmative vote or consent necessary to amend those provi-
 45 sions.

46 (c) After the approval required by subsection (b) of this section, a
 47 partnership may become a limited liability partnership by delivering to the

1 secretary of state for filing a statement of qualification. The statement
2 must contain:

3 (1) The name of the partnership;

4 (2) The street and mailing addresses of the partnership's principal of-
5 fice and, if different, the street address of an office in this state, if
6 any;

7 (3) The information required by section 30-21-404 (a), Idaho Code;

8 (4) A statement that the partnership elects to become a limited liabil-
9 ity partnership; and

10 (5) If the partnership is a professional entity, a statement that
11 the partnership is a professional limited liability partnership and
12 the principal profession or professions for which the partnership's
13 partners are duly licensed or otherwise legally authorized to render
14 professional services.

15 (d) A partnership's status as a limited liability partnership remains
16 effective, regardless of changes in the partnership, until it is canceled
17 pursuant to subsection (f) of this section or administratively revoked pur-
18 suant to section 30-23-902~~3~~, Idaho Code.

19 (e) The status of a partnership as a limited liability partnership and
20 the protection against liability of its partners for the debts, obligations,
21 or other liabilities of the partnership while it is a limited liability part-
22 nership is not affected by errors or later changes in the information re-
23 quired to be contained in the statement of qualification.

24 (f) A limited liability partnership may amend or cancel its statement
25 of qualification by delivering to the secretary of state for filing a state-
26 ment of amendment or cancellation. The statement must be approved by the af-
27 firmative vote or consent of all the partners and state the name of the lim-
28 ited liability partnership and in the case of:

29 (1) An amendment, state the text of the amendment; and

30 (2) A cancellation, state that the statement of qualification is can-
31 celed.

32 SECTION 30. That Section 30-24-204, Idaho Code, be, and the same is
33 hereby amended to read as follows:

34 30-24-204. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects
35 are covered outside this chapter:

36 (1) Signing and filing pursuant to judicial order - section 30-21-210,
37 Idaho Code.

38 (2) Liability for inaccurate information in filed record - section
39 30-21-211, Idaho Code.

40 (3) Filing requirements - section 30-21-201, Idaho Code.

41 (4) Effective date and time - section 30-21-203, Idaho Code.

42 (5) Withdrawal of filed record before effectiveness - section 30-21-
43 204, Idaho Code.

44 (6) Correcting filed record - section 30-21-205, Idaho Code.

45 (7) Duty of secretary of state to file; review of refusal to file; de-
46 livery of record by secretary of state - sections 30-21-206 and 30-21-211~~2~~,
47 Idaho Code.

48 (8) Certificate of good standing or registration - section 30-21-208,
49 Idaho Code.

1 (9) Annual report for secretary of state - section 30-21-213, Idaho
2 Code.

3 SECTION 31. That Section 30-24-801, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 30-24-801. EVENTS CAUSING DISSOLUTION. (a) A limited partnership is
6 dissolved, and its activities and affairs must be wound up, upon the occur-
7 rence of any of the following:

8 (1) An event or circumstance that the partnership agreement states
9 causes dissolution;

10 (2) The affirmative vote or consent of all general partners and of lim-
11 ited partners owning a majority of the rights to receive distributions
12 as limited partners at the time the vote or consent is to be effective;

13 (3) After the dissociation of a person as a general partner:

14 (A) If the partnership has at least one (1) remaining general
15 partner, the affirmative vote or consent to dissolve the part-
16 nership not later than ninety (90) days after the dissociation by
17 partners owning a majority of the rights to receive distributions
18 as partners at the time the vote or consent is to be effective; or

19 (B) If the partnership does not have a remaining general partner,
20 the passage of ninety (90) days after the dissociation, unless be-
21 fore the end of the period:

22 (i) Consent to continue the activities and affairs of the
23 partnership and admit at least one (1) general partner is
24 given by limited partners owning a majority of the rights to
25 receive distributions as limited partners at the time the
26 consent is to be effective; and

27 (ii) At least one (1) person is admitted as a general partner
28 in accordance with the consent;

29 (4) The passage of ninety (90) consecutive days after the dissociation
30 of the partnership's last limited partner, unless before the end of the
31 period the partnership admits at least one (1) limited partner;

32 (5) The passage of ninety (90) consecutive days during which the part-
33 nership has only one (1) partner, unless before the end of the period:

34 (A) The partnership admits at least one (1) person as a partner;

35 (B) If the previously sole remaining partner is only a general
36 partner, the partnership admits the person as a limited partner;
37 and

38 (C) If the previously sole remaining partner is only a limited
39 partner, the partnership admits a person as a general partner;

40 (6) On application by a partner, the entry by the district court of an
41 order dissolving the partnership on the grounds that:

42 (A) The conduct of all or substantially all the partnership's ac-
43 tivities and affairs is unlawful; or

44 (B) It is not reasonably practicable to carry on the partnership's
45 activities and affairs in conformity with the certificate of lim-
46 ited partnership and partnership agreement; or

47 (7) The signing and filing of a statement of administrative dissolution
48 by the secretary of state under section ~~30-21-811~~ 24-1-602, Idaho Code.

1 (b) If an event occurs that imposes a deadline on a limited partnership
 2 under subsection (a) of this section and before the partnership has met the
 3 requirements of the deadline, another event occurs that imposes a different
 4 deadline on the partnership under subsection (a) of this section:

5 (1) The occurrence of the second event does not affect the deadline
 6 caused by the first event; and

7 (2) The partnership's meeting of the requirements of the first deadline
 8 does not extend the second deadline.

9 SECTION 32. That Section 30-24-803, Idaho Code, be, and the same is
 10 hereby amended to read as follows:

11 30-24-803. RESCINDING DISSOLUTION. (a) A limited partnership may re-
 12 scind its dissolution, unless a statement of termination applicable to the
 13 partnership is effective, the district court has entered an order under sec-
 14 tion 30-24-801(a) (6), Idaho Code, dissolving the partnership, or the secre-
 15 tary of state has dissolved the partnership under section ~~30-24-811~~ 30-21-
 16 602, Idaho Code.

17 (b) Rescinding dissolution under this section requires:

18 (1) The affirmative vote or consent of each partner; and

19 (2) If the limited partnership has delivered to the secretary of state
 20 for filing an amendment to the certificate of limited partnership stat-
 21 ing that the partnership is dissolved and:

22 (A) The amendment is not effective, the filing by the partnership
 23 of a statement of withdrawal under section 30-21-204, Idaho Code,
 24 applicable to the amendment; or

25 (B) The amendment is effective, the delivery by the partnership to
 26 the secretary of state for filing of an amendment to the certifi-
 27 cate of limited partnership stating that dissolution has been re-
 28 scinded under this section.

29 (c) If a limited partnership rescinds its dissolution:

30 (1) The partnership resumes carrying on its activities and affairs as
 31 if dissolution had never occurred;

32 (2) Subject to paragraph (3) of this subsection, any liability incurred
 33 by the partnership after the dissolution and before the rescission is
 34 effective is determined as if dissolution had never occurred; and

35 (3) The rights of a third party arising out of conduct in reliance on the
 36 dissolution before the third party knew or had notice of the rescission
 37 may not be adversely affected.

38 SECTION 33. That Section 31-3517, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 31-3517. ESTABLISHMENT OF A CATASTROPHIC HEALTH CARE COST PRO-
 41 GRAM. (1) The governing board of the catastrophic health care cost program
 42 created by the counties pursuant to a joint exercise of powers agreement,
 43 dated October 1, 1984, and serving on June 30, 1991, is hereby continued as
 44 such through December 31, 1992, to complete the affairs of the board, to
 45 continue to pay for those medical costs incurred by participating counties
 46 prior to October 1, 1991, until all costs are paid or the moneys in the cata-
 47 strophic health care cost account contributed by participating counties are

1 exhausted, and to pay the balance of such contributions back to the county of
2 origin in the proportion contributed. County responsibility shall be lim-
3 ited to the first eleven thousand dollars (\$11,000) per claim. The remainder
4 of the eligible costs of the claim shall be paid by the state catastrophic
5 health care cost program.

6 (2) Commencing October 1, 1991, a catastrophic health care cost program
7 board is hereby established for the purpose of administering the cata-
8 strophic health care cost program. This board shall consist of twelve (12)
9 members, with six (6) county commissioners, one (1) from each of the six (6)
10 districts or regions established by the Idaho association of counties, four
11 (4) members of the legislature, with one (1) each being appointed by the
12 president pro tempore of the senate, the leader of the minority party of the
13 senate, the speaker of the house of representatives and the leader of the
14 minority party of the house of representatives, one (1) member appointed by
15 the director of the department and one (1) member appointed by the governor.

16 (a) The county commissioner members shall be elected by the county com-
17 missioners of the member counties of each district or region, with each
18 board of county commissioners entitled to one (1) vote. The process
19 and procedures for conducting the election and determining the members
20 shall be determined by the board itself, except that the election must
21 be conducted, completed and results certified by December 31 of each
22 year in which an election for members is conducted. The board recog-
23 nized in subsection (1) of this section shall authorize and conduct the
24 election in 1991.

25 (b) The term of office of a member shall be two (2) years, commencing
26 on January 1 next following election or appointment, except that for
27 commissioner members elected in 1991, the commissioner members from
28 districts or regions 1, 3 and 5 shall serve for a term of one (1) year,
29 and the commissioner members from districts or regions 2, 4 and 6 shall
30 serve for a term of two (2) years. Members may be reelected or reap-
31 pointed. Election or appointment to fill vacancies shall be for the
32 balance of the unexpired term.

33 (c) The board shall have an executive committee consisting of the
34 chair, ~~vice chair~~ vice chair, secretary and such other members of the
35 board as determined by the board. The executive committee may exercise
36 such authority as may be delegated to it by the board between meetings.

37 (d) The member appointed by the governor shall be reimbursed as pro-
38 vided in section 59-509(b), Idaho Code, from the catastrophic health
39 care cost account.

40 (3) The board shall meet at least once each year at the time and place
41 fixed by the chair. Other necessary meetings may be called by the chair by
42 giving notice as may be required by state statute or rule. Notice of all
43 meetings shall be given in the manner prescribed by law.

44 (4) Except as may otherwise be provided, a majority of the board consti-
45 tutes a quorum for all purposes, and the majority vote of the members voting
46 shall constitute the action of the board. The secretary of the board shall
47 take and maintain the minutes of board proceedings. Meetings shall be open
48 and public except the board may meet in closed session to prepare, approve
49 and administer applications submitted to the board for approval by the re-
50 spective counties.

1 (5) At the first meeting of the board in January of each year, the board
2 shall organize by electing a chair, a ~~vice-chair~~ vice chair, a secretary and
3 such other officers as desired.

4 (6) ~~catastrophic health care cost~~ All moneys received or expended by
5 the program shall be audited annually by a certified public accountant, des-
6 signated by the governing board, who shall furnish a copy of such audit to the
7 director of legislative services.

8 (7) The board shall submit a request to the governor and the legislature
9 in accordance with the provisions of chapter 35, title 67, Idaho Code, for an
10 appropriation for the maintenance and operation of the catastrophic health
11 care cost program.

12 SECTION 34. That Section 31-4121, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 31-4121. ALTERATION AND ANNEXATION OF TRANSLATOR DISTRICT BOUNDARIES
15 -- PROCEDURE. The boundaries of a translator district created by authority
16 of this act, may be altered and outlying areas be annexed from territory con-
17 tiguous to the district in the following manner:

18 ~~a.~~ (1) A petition shall be signed by resident real property owners
19 within the proposed area, equal in number to not less than sixty ~~per cent~~
20 percent (60%), within the area to be annexed;

21 ~~b.~~ (2) The petition shall designate the boundaries of the contiguous
22 area to be annexed and ask that it be annexed to the existing translator dis-
23 trict;

24 ~~c.~~ (3) The petition shall be transmitted to the clerk and recorder and
25 the hearing and notice thereof shall be the same as provided by sections ~~6~~
26 ~~through 8 of this act~~ 31-4106 through 31-4108, Idaho Code;

27 ~~d.~~ (4) After the hearing, the board of county commissioners shall adopt
28 a resolution either annexing the area to the existing television district or
29 denying the petition.

30 SECTION 35. That Section 55-2202, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 55-2202. DEFINITIONS. As used in this chapter:

33 (1) "Administrator" means the administrator of the division of build-
34 ing safety.

35 (2) "Board" means the damage prevention board.

36 (3) "Business day" means any day other than Saturday, Sunday, or a le-
37 gal, local, state, or federal holiday.

38 (4) "Damage" means any impact or exposure that results in the substan-
39 tial weakening of structural or lateral support of an underground facility,
40 or the penetration, impairment, or destruction of any underground protec-
41 tive coating, housing, or other protective device, or the partial or com-
42 plete destruction of the facility, or the severance, partial or complete, of
43 any underground facility to the extent that the project owner or the affected
44 underground facility owner determines that repairs are required.

45 (5) "Emergency" means any sudden or unforeseen condition constituting
46 a clear and present danger to life, health or property, or a customer service

1 outage, or the blockage of roads or transportation facilities that requires
2 immediate action.

3 (6) "End user" means any customer or consumer of any utility service or
4 commodity provided by an underground facility owner.

5 (7) "Excavation" means any operation in which earth, rock, or other ma-
6 terial in the ground is moved or otherwise displaced by any means including,
7 but not limited to, explosives.

8 (8) "Excavator" means any person who engages directly in excavation.

9 (9) "Excavator downtime" means lost time for an excavation project due
10 to failure of one (1) or more stakeholders to comply with applicable damage
11 prevention regulations.

12 (~~9~~10) "Hand digging" means any excavation involving nonmechanized
13 tools or equipment that when used properly will not damage underground fa-
14 cilities. Hand digging includes, but is not limited to, hand shovel digging,
15 manual posthole digging, vacuum excavation, and soft digging.

16 (~~10~~1) "Identified but unlocatable underground facility" means an un-
17 derground facility that has been identified but cannot be located with rea-
18 sonable accuracy.

19 (~~11~~2) "Identified facility" means any underground facility that is in-
20 dicated in the project plans as being located within the area of proposed ex-
21 cavation.

22 (~~12~~3) "Locatable underground facility" means an underground facility
23 that can be field-marked with reasonable accuracy.

24 (~~13~~4) "Locator" means a person who identifies and marks the location of
25 an underground facility owned or operated by an underground facility owner.

26 (~~14~~5) "Marking" means the use of stakes, paint, or other clearly iden-
27 tifiable materials to show the field location of underground facilities, in
28 accordance with the current color code standard of the American public works
29 association. Markings shall include identification letters indicating the
30 specific type of the underground facility.

31 (~~15~~6) "One-number notification service" means a service through which a
32 person can notify owners of underground facilities and request field-mark-
33 ing of their underground facilities.

34 (~~16~~7) "Person" means an individual, partnership, association, corpora-
35 tion, a state, a city, a county, or any subdivision or instrumentality of a
36 state, and its employees, agents, or legal representatives.

37 (~~17~~8) "Public right-of-way" means the area on, below, or above a public
38 roadway, highway, street, lane, path, sidewalk, alley, or other right-of-
39 way dedicated for compatible uses.

40 (~~18~~9) "Reasonable accuracy" or "reasonably accurate" means location
41 within twenty-four (24) inches horizontally of the outside dimensions of
42 each side of an underground facility.

43 (~~19~~20) "Rural underground facility owner" means an underground facil-
44 ity owner that is a public utility or a member-owned cooperative that serves
45 fewer than five thousand (5,000) total customers in a county or counties with
46 populations that do not exceed fifty thousand (50,000) people.

47 (~~20~~21) "Service lateral" means any underground facility located in a
48 public right-of-way or underground facility easement that is used to convey
49 water (unless being delivered primarily for irrigation), stormwater, or

1 sewage and connects an end user's building or property to an underground
2 facility owner's main utility line.

3 ~~(1922)~~ "Soft digging" means any excavation using tools or equipment
4 that utilize air or water pressure as the direct means to break up soil or
5 earth for removal by vacuum excavation.

6 ~~(203)~~ "Stakeholder" means any party with an interest in protecting un-
7 derground facilities including, but not limited to, persons, property own-
8 ers, underground facility owners, excavators, contractors, cities, coun-
9 ties, highway districts, railroads, public entities that deliver irrigation
10 water and those engaged in agriculture.

11 ~~(214)~~ "Underground facility" means any item buried or placed below
12 ground for use in connection with the storage or conveyance of water (unless
13 being delivered primarily for irrigation), stormwater, sewage, electronic,
14 telephonic or telegraphic communications, cable television, electric en-
15 ergy, petroleum products, gas, gaseous vapors, hazardous liquids, or other
16 substances and including, but not limited to, pipes, sewers, conduits, ca-
17 bles, valves, lines, wires, manholes, attachments, and those parts of poles
18 or anchors ~~below ground~~ belowground.

19 ~~(225)~~ "Underground facility easement" means a nonpossessory right to
20 operate, control, bury, install, maintain, or access an underground facil-
21 ity.

22 ~~(236)~~ "Underground facility owner" means any person who owns or oper-
23 ates an underground facility or who provides any utility service or commod-
24 ity to an end user via an underground facility.

25 SECTION 36. That Section 63-3621, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise
28 tax is hereby imposed on the storage, use, or other consumption in this state
29 of tangible personal property acquired on or after October 1, 2006, for
30 storage, use, or other consumption in this state at the rate of six percent
31 (6%) of the value of the property, and a recent sales price shall be presump-
32 tive evidence of the value of the property unless the property is wireless
33 telecommunications equipment, in which case a recent sales price shall be
34 conclusive evidence of the value of the property.

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

45 (b) Every retailer engaged in business in this state, and making sales
46 of tangible personal property for the storage, use, or other consumption in
47 this state, not exempted under section 63-3622, Idaho Code, shall, at the
48 time of making the sales or, if storage, use or other consumption of the tan-
49 gible personal property is not then taxable hereunder, at the time the stor-

1 age, use or other consumption becomes taxable, collect the tax from the pur-
2 chaser and give to the purchaser a receipt therefor in the manner and form
3 prescribed by the state tax commission.

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

7 (d) Every retailer engaged in business in this state or maintaining a
8 place of business in this state shall register with the state tax commission
9 and give the name and address of all agents operating in this state, the loca-
10 tion of all distributions or sales houses or offices or other places of busi-
11 ness in this state, and such other information as the state tax commission
12 may require.

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

25 A seller may accept a resale certificate from a purchaser prior to the
26 time of sale, at the time of sale, or at any reasonable time after the sale
27 when necessary to establish the privilege of the exemption. The resale cer-
28 tificate relieves the person selling the property from the burden of proof
29 only if taken from a person who is engaged in the business of selling or rent-
30 ing tangible personal property and who holds the permit provided for by sec-
31 tion 63-3620, Idaho Code, or who is a retailer not engaged in business in
32 this state, and who, at the time of purchasing the tangible personal prop-
33 erty, intends to sell or rent it in the regular course of business or is un-
34 able to ascertain at the time of purchase whether the property will be sold or
35 will be used for some other purpose. Other than as provided elsewhere in this
36 section, when a resale certificate, properly executed, is presented to the
37 seller, the seller has no duty or obligation to collect sales or use taxes in
38 regard to any sales transaction so documented regardless of whether the pur-
39 chaser properly or improperly claimed an exemption. A seller so relieved of
40 the obligation to collect tax is also relieved of any liability to the pur-
41 chaser for failure to collect tax or for making any report or disclosure of
42 information required or permitted under this chapter.

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

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

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

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

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

17 (j) When the tangible personal property subject to use tax has been sub-
18 jected to a general retail sales or use tax by another state of the United
19 States in an amount equal to or greater than the amount of the Idaho tax, and
20 evidence can be given of such payment, the property will not be subject to
21 Idaho use tax. If the amount paid the other state was less, the property will
22 be subject to use tax to the extent that the Idaho tax exceeds the tax paid
23 to the other state. For the purposes of this subsection, a registration cer-
24 tificate or title issued by another state or subdivision thereof for a vehi-
25 cle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be
26 sufficient evidence of payment of a general retail sales or use tax.

27 (k) The use tax herein imposed shall not apply to the use by a nonres-
28 ident of this state of a motor vehicle which is registered or licensed un-
29 der the laws of the state of his residence and is not used in this state more
30 than a cumulative period of time totaling ninety (90) days in any consecutive
31 twelve (12) months, and which is not required to be registered or licensed
32 under the laws of this state. The use tax herein shall also not apply to any
33 use of a motor vehicle which is registered or licensed under the laws of the
34 state of residence of a nonresident student while such nonresident student
35 is enrolled as a full-time student in an institution of postsecondary educa-
36 tion that is both physically located in Idaho and recognized as accredited by
37 the state board of education.

38 (l) The use tax herein imposed shall not apply to the use of household
39 goods, personal effects and personally owned vehicles or personally owned
40 aircraft by a resident of this state if such articles were acquired by such
41 person in another state while a resident of that state and primarily for use
42 outside this state and if such use was actual and substantial, but if an arti-
43 cle was acquired less than three (3) months prior to the time he entered this
44 state, it will be presumed that the article was acquired for use in this state
45 and that its use outside this state was not actual and substantial. The use
46 tax herein imposed shall not apply to the use of household goods, personal
47 effects and personally owned vehicles or personally owned aircraft by ac-
48 tive duty military personnel temporarily assigned in this state and spouses
49 who accompany them if such articles were acquired prior to receipt of orders
50 to transfer to Idaho or three (3) months prior to moving to Idaho, whichever

1 time period is shorter. For purposes of this subsection, "resident" shall be
2 as defined in section 63-3013 or 63-3013A, Idaho Code.

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

7 (1) A nonprofit organization as defined in section 63-36220, Idaho
8 Code; or

9 (2) The state of Idaho; or

10 (3) Any political subdivision of the state.

11 This exemption applies whether the tangible personal property is incorpo-
12 rated in real property by the donee, a contractor or subcontractor of the
13 donee, or any other person.

14 (n) The use tax herein imposed shall not apply to tastings of food and
15 beverages including, but not limited to, wine and beer. For the purposes of
16 this subsection, a tasting of wine and beer shall be defined as the maximum
17 serving allowed by state or federal laws for such occasions provided to a po-
18 tential customer, at no charge, at a location where like or similar beverages
19 are sold. For nonalcoholic beverages and food, a tasting shall be defined as
20 a sample from a unit available for sale at the tasting location.

21 (o) The use tax herein imposed shall not apply to donations of food or
22 beverages, or both, to individuals or nonprofit organizations. For the pur-
23 poses of this section, "nonprofit organization" means those nonprofit en-
24 tities currently registered with the secretary of state pursuant to section
25 ~~30-3-2~~ 30-30-102, Idaho Code.

26 (p) The use tax herein imposed shall not apply to a retailer supplying
27 prepared food or beverages free of charge to its employee when that retailer
28 sells prepared food or beverages in its normal course of business.

29 SECTION 37. That Section 67-6602, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 67-6602. DEFINITIONS. As used in this chapter, the following terms
32 have the following meanings:

33 (1) "Candidate" means an individual who seeks nomination, election, or
34 reelection to public office and who has taken any of the following actions:

35 (a) Announced the individual's candidacy publicly;

36 (b) Filed for public office;

37 (c) Received a contribution for the purpose of promoting the individ-
38 ual's candidacy for office; or

39 (d) Made an expenditure, contracted for services, or reserved space
40 with the intent of promoting the individual's candidacy for office.

41 For purposes of this chapter, an incumbent shall be presumed to be a can-
42 didate in the subsequent election for his or her office, until the in-
43 cumbent has failed to file a declaration of candidacy by the statutory
44 deadline.

45 (2) "Compensation" includes any advance, conveyance, forgiveness of
46 indebtedness, deposit, distribution, loan, payment, gift, pledge or trans-
47 fer of money or anything of value, and any contract, agreement, promise or
48 other obligation, whether or not legally enforceable, to do any of the fore-
49 going, for services rendered or to be rendered, but does not include reim-

1 reimbursement of expenses if such reimbursement does not exceed the amount ac-
2 tually expended for such expenses and is substantiated by an itemization of
3 such expenses.

4 (3) "Contractor" means a person who receives compensation from another
5 person for either full-time or part-time work based on a contract or compen-
6 sation agreement, but who is not an employee of that person.

7 (4) "Contribution" includes any advance, conveyance, forgiveness of
8 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-
9 scription or transfer of money or anything of value, and any contract, agree-
10 ment, promise or other obligation, whether or not legally enforceable, to
11 make a contribution, in support of or in opposition to any candidate, polit-
12 ical committee or measure. Such term also includes personal funds or other
13 property of a candidate or members of his household expended or transferred
14 to cover expenditures incurred in support of such candidate but does not
15 include personal funds used to pay the candidate filing fee. Such term also
16 includes the rendering of personal and professional services for less than
17 full consideration, but does not include ordinary home hospitality or the
18 rendering of "part-time" personal services of the sort commonly performed
19 by volunteer campaign workers or advisors or incidental expenses not in ex-
20 cess of twenty-five dollars (\$25.00) personally paid for by any volunteer
21 campaign worker. "Part-time" services, for the purposes of this definition,
22 means services in addition to regular full-time employment, or, in the case
23 of an unemployed person or persons engaged in part-time employment, services
24 rendered without compensation or reimbursement of expenses from any source
25 other than the candidate or political committee for whom such services are
26 rendered. For the purposes of this act, contributions, other than money or
27 its equivalent shall be deemed to have a money value equivalent to the fair
28 market value of the contribution.

29 (5) "Election" means any state or local general, special, recall, or
30 primary election.

31 (6) "Election campaign" means any campaign in support of or in opposi-
32 tion to a candidate for election to public office and any campaign in support
33 of, or in opposition to, a measure.

34 (7) (a) "Electioneering communication" means any communication broad-
35 cast by television or radio, printed in a newspaper or on a billboard,
36 directly mailed or delivered by hand to personal residences, or tele-
37 phone calls made to personal residences, or otherwise distributed that:

- 38 (i) Unambiguously refers to any candidate; and
39 (ii) Is broadcasted, printed, mailed, delivered, made or dis-
40 tributed within thirty (30) days before a primary election or
41 sixty (60) days before a general election; and
42 (iii) Is broadcasted to, printed in a newspaper, distributed to,
43 mailed to or delivered by hand to, telephone calls made to, or
44 otherwise distributed to an audience that includes members of the
45 electorate for such public office.

46 (b) "Electioneering communication" does not include:

- 47 (i) Any news articles, editorial endorsements, opinion or com-
48 mentary, writings, or letter to the editor printed in a newspaper,
49 magazine, or other periodical not owned or controlled by a candi-
50 date, political committee, or political party;

1 (ii) Any editorial endorsements or opinions aired by a broadcast
2 facility not owned or controlled by a candidate, political commit-
3 tee, or political party;

4 (iii) Any communication by persons made in the regular course and
5 scope of their business or any communication made by a membership
6 organization solely to members of such organization and their fam-
7 ilies;

8 (iv) Any communication that refers to any candidate only as part
9 of the popular name of a bill or statute;

10 (v) A communication that constitutes an expenditure or an inde-
11 pendent expenditure under this chapter.

12 (8) "Employee" means an individual who performs a service for wages or
13 other compensation from which the individual's employer withholds federal
14 employment taxes under a contract for hire, written or oral.

15 (9) "Executive official" means:

16 (a) The governor, lieutenant governor, secretary of state, state con-
17 troller, state treasurer, attorney general, superintendent of public
18 instruction and any deputy or staff member of any of those individuals
19 who, within the course and scope of his or her employment, is directly
20 involved in major policy-influencing decisions for the office;

21 (b) A state department or agency director, deputy director, division
22 administrator or bureau chief as established and enumerated in sections
23 67-2402 and 67-2406, Idaho Code;

24 (c) The membership and the executive or chief administrative officer
25 of any board or commission that is authorized to make rules or conduct
26 rulemaking activities pursuant to section 67-5201, Idaho Code;

27 (d) The membership and the executive or chief administrative officer
28 of any board or commission that governs any of the state departments
29 enumerated in section 67-2402, Idaho Code, not including public school
30 districts;

31 (e) The membership and the executive or chief administrative officer
32 of the Idaho public utilities commission, the Idaho industrial commis-
33 sion, and the Idaho state tax commission; and

34 (f) The members of the governing board of the state insurance fund and
35 the members of the governing board and the executive or chief adminis-
36 trative officer of the Idaho housing and finance association, the Idaho
37 energy resources authority, and the Idaho state building authority.

38 (10) "Expenditure" includes any payment, contribution, subscription,
39 distribution, loan, advance, deposit, or gift of money or anything of value,
40 and includes a contract, promise, or agreement, whether or not legally en-
41 forceable, to make an expenditure. The term "expenditure" also includes a
42 promise to pay, a payment or a transfer of anything of value in exchange for
43 goods, services, property, facilities or anything of value for the purpose
44 of assisting, benefiting or honoring any public official or candidate, or
45 assisting in furthering or opposing any election campaign.

46 (11) "Independent expenditure" means any expenditure by a person for
47 a communication expressly advocating the election, passage or defeat of a
48 clearly identified candidate or measure that is not made with the coopera-
49 tion or with the prior consent of, or in consultation with, or at the consent
50 of, or in consultation with, or at the request of a suggestion of, a candidate

1 or any agent or authorized committee of the candidate or political committee
2 supporting or opposing a measure. As used in this subsection, "expressly ad-
3 vocating" means any communication containing a message advocating election,
4 passage or defeat including, but not limited to, the name of the candidate
5 or measure, or expression such as "vote for," "elect," "support," "cast your
6 ballot for," "vote against," "defeat" or "reject."

7 (12) "Lobby" and "lobbying" each means attempting through contacts
8 with, or causing others to make contact with, members of the legislature or
9 legislative committees or an executive official to influence the approval,
10 modification or rejection of any legislation by the legislature of the state
11 of Idaho or any committee thereof or by the governor or to develop or main-
12 tain relationships with, promote goodwill with, or entertain members of the
13 legislature or executive officials. "Lobby" and "lobbying" shall also mean
14 communicating with an executive official for the purpose of influencing the
15 consideration, amendment, adoption or rejection of any rule or rulemaking as
16 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
17 ment, contract, bid or bid process, financial services agreement, or bond
18 issue. Neither "lobby" nor "lobbying" includes an association's or other
19 organization's act of communicating with the members of that association
20 or organization; and provided that neither "lobby" nor "lobbying" includes
21 communicating with an executive official for the purpose of carrying out
22 ongoing negotiations following the award of a bid or a contract, communica-
23 tions involving ongoing legal work and negotiations conducted by and with
24 attorneys for executive agencies, interactions between parties in litiga-
25 tion or other contested matters, or communications among and between members
26 of the legislature and executive officials and their employees, or by state
27 employees while acting in their official capacity or within the course and
28 scope of their employment.

29 (13) "Lobbyist" includes any person who lobbies.

30 (14) "Lobbyist's client" means the person on whose behalf the lobbyist
31 is acting, directly or indirectly, as a contractor, and by whom the lobbyist
32 or lobbyist's employer is compensated for acting as a lobbyist.

33 (15) "Lobbyist's employer" means the person or persons for whom a lob-
34 byist is an employee, and by whom the lobbyist is compensated for acting as a
35 lobbyist.

36 (136) "Local government office" means any publicly elected office for
37 any political subdivision of the state or special district that is not a leg-
38 islative, judicial, statewide, or federal office.

39 (167) "Measure" means any proposal submitted to the people for their
40 approval or rejection at an election, including any initiative, referendum,
41 recall election, or revision of or amendment to the state constitution. An
42 initiative or referendum proposal shall be deemed a measure when the attor-
43 ney general, county prosecutor, or city attorney, as appropriate, reviews it
44 and gives it a ballot title. A recall shall be deemed a measure upon approval
45 of the recall petition as to form pursuant to section 34-1704, Idaho Code.

46 (178) "Nonbusiness entity" means any group of two (2) or more individ-
47 uals, a corporation, association, firm, partnership, committee, club or
48 other organization that:

49 (a) Does not have as its principal purpose the conduct of business ac-
50 tivities for profit; and

1 (b) Received during the preceding or current calendar year contribu-
 2 tions, gifts or membership fees, which in the aggregate exceeded ten
 3 percent (10%) of its total receipts for such year.

4 (189) "Person" means an individual, corporation, association, firm,
 5 partnership, committee, political party, club or other organization or
 6 group of persons.

7 (1920) "Political committee" means:

8 (a) Any person specifically designated to support or oppose any candi-
 9 date or measure; or

10 (b) Any person who receives contributions and makes expenditures in
 11 an amount exceeding one thousand dollars (\$1,000) in any calendar year
 12 for the purpose of supporting or opposing one (1) or more candidates or
 13 measures. Any entity registered with the federal election commission
 14 shall not be considered a political committee for purposes of this chap-
 15 ter.

16 (c) A county, district or regional committee of a recognized politi-
 17 cal party shall not be considered a political committee for the purposes
 18 of this chapter unless such party committee has expenditures exceeding
 19 five thousand dollars (\$5,000) in a calendar year.

20 (201) "Political treasurer" means an individual appointed by a candi-
 21 date or political committee as provided in section 67-6603, Idaho Code.

22 (212) "Public office" means any local, legislative, judicial, or state
 23 office or position that is filled by election but does not include the office
 24 of precinct committeeman.

25 SECTION 38. That Section 67-6621, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 67-6621. DUTIES OF LOBBYISTS. A person required to register as a lob-
 28 byist under this chapter shall also have the following obligations, the vi-
 29 olation of which shall constitute cause for revocation of his registration,
 30 and may subject such person, and such person's employer or client, if such
 31 employer or client aids, abets, ratifies or confirms any such act, to other
 32 civil liabilities, as provided by this chapter:

33 (1) Such persons shall obtain and preserve all accounts, bills,
 34 receipts, books, papers, and documents necessary to substantiate the finan-
 35 cial reports required to be made under this chapter for a period of at least
 36 three (3) years from the date of the filing of the statement containing such
 37 items, which accounts, bills, receipts, books, papers and documents shall
 38 be made available for inspection by the secretary of state at any reasonable
 39 time during such three (3) year period; provided, however, that if a lobbyist
 40 is required under the terms of his employment contract to turn any records
 41 over to his employer or client, responsibility for the preservation of such
 42 records under this subsection shall rest with such employer or client.

43 (2) In addition, a person required to register as a lobbyist shall not:

44 (a) Engage in any activity as a lobbyist before registering as such;

45 (b) Knowingly deceive or attempt to deceive any legislator to any fact
 46 pertaining to any pending or proposed legislation;

47 (c) Cause or influence the introduction of any bill or amendment
 48 thereto for the purpose of thereafter being employed to secure its de-
 49 feat;

1 (d) Knowingly represent an interest adverse to any of his employers or
 2 clients without first obtaining such employers' or clients' consent
 3 thereto after full disclosure to such employers or clients of such ad-
 4 verse interest;

5 (e) Exercise any economic reprisal, extortion, or unlawful retalia-
 6 tion upon any legislator by reason of such legislator's position with
 7 respect to, or his vote upon, any pending or proposed legislation;

8 (f) Accept any employment as a lobbyist for a compensation dependent
 9 in any manner upon the passage or defeat of any proposed or pending leg-
 10 islation or upon any other contingency connected with the action of the
 11 legislature or of either branch thereof or of any committee thereof.
 12 This contingent fee prohibition shall also apply to lobbying activities
 13 that pertain to communications with executive officials as described in
 14 section 67-6602(9), Idaho Code. 7

15 SECTION 39. That Chapter 93, Title 67, Idaho Code, as enacted by Section
 16 1, Chapter 206, Laws of 2019, be, and the same is hereby amended to read as
 17 follows:

18 CHAPTER 935

19 COMPENSATORY MITIGATION FOR IMPACTS TO WETLANDS

20 67-~~9301~~9501. LEGISLATIVE FINDINGS AND PURPOSE. (1) The purpose of
 21 this chapter is to promote the availability of all types of compensatory
 22 mitigation projects in the state of Idaho, consistent with the provisions of
 23 section 404 of the federal clean water act and the regulations promulgated
 24 pursuant to it, for the development of projects with unavoidable impacts to
 25 wetlands.

26 (2) In 2008, the United States army corps of engineers and the environ-
 27 mental protection agency issued revised regulations governing compensatory
 28 mitigation for impacts to wetlands under section 404 of the federal clean wa-
 29 ter act, which are contained at 33 CFR parts 325 and 332 and 40 CFR part 230
 30 and referred to as the 2008 compensatory mitigation for losses of aquatic re-
 31 sources rule. These regulations establish equivalent and effective stan-
 32 dards for all three (3) types of compensatory mitigation projects: mitiga-
 33 tion banks, in-lieu fee mitigation, and permittee-responsible mitigation.

34 (3) State agencies may review or permit activities associated with ap-
 35 plications for United States army corps of engineers section 404 permits and
 36 the corps' determinations regarding compensatory mitigation under the miti-
 37 gation rule.

38 67-~~9302~~9502. DEFINITIONS. As used in this chapter:

39 (1) "Compensatory mitigation" means the restoration, re-establishment
 40 or rehabilitation, establishment or creation, enhancement, and in certain
 41 circumstances preservation of aquatic resources for the purpose of offset-
 42 ting unavoidable adverse impacts that remain after all appropriate and prac-
 43 ticable avoidance and minimization have been achieved.

44 (2) "Compensatory mitigation project" means compensatory mitigation
 45 implemented by the permittee as a requirement of a corps of engineers section
 46 404 wetland permit, i.e., permittee-responsible mitigation, or by a mitiga-
 47 tion bank, or an in-lieu fee program.

1 (3) "Impact" or "impacts" means adverse effects.

2 (4) "Mitigation rule" or "2008 mitigation rule" means the federal regu-
3 lations promulgated by the United States army corps of engineers and the en-
4 vironmental protection agency, on April 28, 2008, pursuant to the federal
5 clean water act, contained at 33 CFR parts 325 and 332 and 40 CFR part 230, and
6 known as the 2008 compensatory mitigation for losses of aquatic resources
7 rule.

8 (5) "Permittee" means any person making application for a federal clean
9 water act section 404 permit from the United States army corps of engineers.

10 (6) "Person" means any individual, partnership, corporation, associa-
11 tion, governmental subdivision or agency, or public or private organization
12 or entity of any character.

13 (7) "State agency" means each state board, commission, department or
14 officer, but does not include the legislative or judicial branches, exec-
15 utive officers listed in section 1, article IV, of the constitution of the
16 state of Idaho, in the exercise of powers derived directly and exclusively
17 from the constitution, the state militia, or the state board of correction.

18 67-93039503. LIMITATIONS. (1) No state agency, officer, or employee
19 shall, as part of any action related to issuance of a federal clean water act
20 section 404 permit, require mitigation for impacts to wetlands that is more
21 stringent than federal compensatory mitigation requirements for impacts to
22 wetlands under section 404 and the 2008 mitigation rule.

23 (2) The appropriate state agencies may assist the permittee as needed
24 to meet the requirements of the 2008 mitigation rule, including identi-
25 fication of any compensatory mitigation project, when such mitigation is
26 required by the United States army corps of engineers under the mitigation
27 rule. No state agency shall mandate the type of compensatory mitigation
28 project to be proposed to the United States army corps of engineers by a
29 permittee, nor shall any state approval be unreasonably withheld from a per-
30 mittee because of the type of compensatory mitigation project proposed.

31 (3) Individual federal clean water act section 404 permit applications
32 and the associated draft section 401 certifications shall be timely posted
33 on the department of environmental quality website.

34 (4) The provisions of this chapter shall not apply to or modify the
35 provisions of chapter 38, title 42, Idaho Code, regarding the alteration of
36 channels of streams.

37 SECTION 40. That Section 72-1019, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 72-1019. COMPENSATION BENEFITS. (1) A claimant is entitled to weekly
40 compensation benefits when the claimant has a total actual loss of wages due
41 to injury as a result of criminally injurious conduct. During the time the
42 claimant seeks such weekly benefits, the claimant, as a result of such in-
43 jury, must have no reasonable prospect of being regularly employed in the
44 normal labor market. The weekly benefit amount is sixty-six and two-thirds
45 percent (66 2/3%) of the wages received at the time of the criminally in-
46 jurious conduct, subject to a maximum of one hundred seventy-five dollars
47 (\$175). Weekly compensation payments shall be made at the end of each two (2)
48 week period. No weekly compensation payments may be paid for the first week

1 after the criminally injurious conduct occurred, but if total actual loss
2 of wages continues for one (1) week, weekly compensation payments shall be
3 paid from the date the wage loss began. Weekly compensation payments shall
4 continue until the claimant has a reasonable prospect of being regularly em-
5 ployed in the normal labor market.

6 (2) The commission may order payment of reasonable expenses actually
7 incurred by the claimant for reasonable services by a physician or surgeon,
8 reasonable hospital services and medicines, mental health counseling and
9 care, and such other treatment as may be approved by the commission for the
10 injuries suffered due to criminally injurious conduct. Payment for the
11 costs of forensic and medical examinations of alleged victims of sexual
12 assault performed for the purposes of gathering evidence for possible prose-
13 cution, after collections from any federal or ~~federally-financed~~ federally
14 financed third party who has liability, shall be made by the commission;
15 provided however that payment for the costs of forensic and medical exam-
16 inations of alleged victims under eighteen (18) years of age shall be made
17 by the commission after collections from any third party who has liability.
18 The commission shall establish a procedure for summary processing of such
19 claims.

20 (3) (a) The dependents of a victim who is killed as a result of crim-
21 inally injurious conduct are entitled to receive aggregate weekly
22 benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the
23 wages received at the time of the criminally injurious conduct causing
24 the death, subject to a maximum of one hundred seventy-five dollars
25 (\$175) per week. Weekly compensation payments shall be made at the end
26 of each two (2) week period.

27 (b) Benefits under paragraph (a) of this subsection shall be paid to
28 the spouse for the benefit of the spouse and other dependents unless the
29 commission determines that other payment arrangements should be made.
30 If a spouse dies or remarries, benefits under paragraph (a) of this sub-
31 section shall cease to be paid to the spouse but shall continue to be
32 paid to the other dependents as long as their dependent status contin-
33 ues.

34 (4) Reasonable funeral and burial or cremation expenses of the vic-
35 tim, together with actual expenses of transportation of the victim's body,
36 shall be paid in an amount not exceeding five thousand dollars (\$5,000) if
37 all other collateral sources have properly paid such expenses but have not
38 covered all such expenses.

39 (5) (a) Compensation payable to a victim and all of the victim's de-
40 pendents in cases of the victim's death, because of injuries suffered
41 due to an act or acts of criminally injurious conduct involving the same
42 offender and occurring within a six (6) month period, may not exceed
43 twenty-five thousand dollars (\$25,000) in the aggregate.

44 (b) The limitation of paragraph (a) of this subsection is subject to the
45 further limitation that payments for mental health treatment received
46 as a result of the victim's injury may not exceed two thousand five hun-
47 dred dollars (\$2,500) unless the industrial commission finds extenuat-
48 ing circumstances. If the commission finds a victim to have extenuating
49 circumstances as defined in section 72-1003, Idaho Code, the victim is
50 eligible for payments up to the maximum benefit allowed under paragraph

1 (a) of this subsection. The commission shall reevaluate the victim's
2 qualifications for extenuating circumstances not less often than annu-
3 ally.

4 (6) Compensation benefits are not payable for pain and suffering or
5 property damage.

6 (7) (a) A person who has suffered injury as a result of criminally
7 injurious conduct and, as a result of such injury, has no reasonable
8 prospect of being regularly employed in the normal labor market, who was
9 employable but was not employed at the time of such injury, may in the
10 discretion of the commission be awarded weekly compensation benefits in
11 an amount determined by the commission not to exceed one hundred fifty
12 dollars (\$150) per week. Weekly compensation payments shall continue
13 until the claimant has a reasonable prospect of being regularly em-
14 ployed in the normal labor market or for a shorter period as determined
15 by the commission. The claimant shall be awarded benefits as provided
16 in subsection (2) of this section.

17 (b) The dependents of a victim who is killed as a result of criminally
18 injurious conduct and who was employable but not employed at the time of
19 death may, in the discretion of the commission, be awarded, in an aggre-
20 gate amount payable to all dependents, a sum not to exceed one hundred
21 fifty dollars (\$150) per week, which shall be payable in the manner and
22 for the period provided by subsection (3) (b) of this section or for such
23 shorter period as determined by the commission. The claimant shall be
24 awarded benefits as provided in subsection (4) of this section.

25 (c) Compensation payable to a victim or a victim's dependents under
26 this subsection may not exceed twenty thousand dollars (\$20,000), and
27 the limitations of subsection (~~6~~5) of this section apply to compensa-
28 tion under this subsection.

29 (8) Amounts payable as weekly compensation may not be commuted to a lump
30 sum and may not be paid less frequently than every two (2) weeks.

31 (9) (a) Subject to the limitations in paragraphs (b) and (c) of this
32 subsection, the spouse, parent, grandparent, child, grandchild,
33 brother or sister of a victim who is killed, kidnapped, sexually as-
34 sailed or subjected to domestic violence or child injury is entitled to
35 reimbursement for mental health treatment received as a result of such
36 criminally injurious conduct.

37 (b) Total payments made under paragraph (a) of this subsection may not
38 exceed five hundred dollars (\$500) for each person or one thousand five
39 hundred dollars (\$1,500) for a family.

40 (c) With regard to claims filed pursuant to this section, in order for
41 family members of victims of crime to be entitled to benefits, the vic-
42 tim of the crime must also have been awarded benefits for the crime it-
43 self.

44 (10) A claimant or a spouse, parent, child or sibling of a claimant or
45 victim may be reimbursed for his or her expenses for necessary travel in-
46 curred in connection with obtaining benefits covered pursuant to this chap-
47 ter and in accordance with rules of the commission.