

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 101

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 67-1401, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING THE DUTIES OF THE ATTORNEY GENERAL AND TO
3 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1406, IDAHO CODE, TO
4 REVISE PROVISIONS REGARDING LEGAL COUNSEL FOR CERTAIN STATE ENTITIES;
5 AMENDING SECTION 67-1408, IDAHO CODE, TO REVISE PROVISIONS REGARDING
6 THE BILLING OF STATE ENTITIES FOR LEGAL SERVICES AND TO MAKE A TECHNICAL
7 CORRECTION; AMENDING SECTION 67-1409, IDAHO CODE, TO REVISE PROVISIONS
8 REGARDING CONTRACTS FOR THE PROVISION OF LEGAL SERVICES FOR STATE EN-
9 TITIES; AMENDING SECTION 39-9004, IDAHO CODE, TO REVISE A PROVISION
10 REGARDING A CERTAIN PENALTY AND TO PROVIDE A CORRECT CODE REFERENCE;
11 AMENDING SECTION 54-2120, IDAHO CODE, TO CLARIFY THAT THE BOARD OF VET-
12 ERINARY MEDICINE MAY REQUEST LEGAL SERVICES FROM THE ATTORNEY GENERAL
13 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 57-727, IDAHO CODE,
14 TO REVISE PROVISIONS REGARDING LEGAL COUNSEL FOR THE ENDOWMENT FUND IN-
15 VESTMENT BOARD AND THE MANAGER OF INVESTMENTS; AMENDING SECTION 58-120,
16 IDAHO CODE, TO REVISE PROVISIONS REGARDING LEGAL COUNSEL FOR THE DE-
17 PARTMENT OF LANDS; AMENDING SECTION 61-204, IDAHO CODE, TO SPECIFY THE
18 RIGHT OF THE PUBLIC UTILITIES COMMISSION TO EMPLOY LEGAL COUNSEL OTHER
19 THAN THE ATTORNEY GENERAL AND TO MAKE A TECHNICAL CORRECTION; AMENDING
20 SECTION 63-3047, IDAHO CODE, TO PROVIDE FOR THE CONSENT OF LEGAL COUNSEL
21 TO COMPROMISE OF CASES BY THE STATE TAX COMMISSION; AMENDING SECTION
22 63-3048, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE INVOLVEMENT
23 OF LEGAL COUNSEL FOR THE STATE TAX COMMISSION IN THE SETTLEMENT OF COM-
24 PROMISE CASES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
25 63-3056, IDAHO CODE, TO AUTHORIZE THE LEGAL COUNSEL OF THE STATE TAX
26 COMMISSION TO FILE A COURT ACTION TO ENFORCE A TAX LIEN AND TO MAKE A
27 TECHNICAL CORRECTION; AMENDING SECTION 63-3066, IDAHO CODE, TO PROVIDE
28 FOR THE RIGHT OF THE STATE TAX COMMISSION TO EMPLOY OUTSIDE LEGAL COUN-
29 SEL; AMENDING SECTION 67-802, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR
30 MAY REQUEST THE ATTORNEY GENERAL OR OTHER LEGAL COUNSEL TO APPEAR IN
31 SUITS BY OR AGAINST THE STATE AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
32 ING SECTION 67-2601A, IDAHO CODE, TO REVISE PROVISIONS REGARDING LEGAL
33 COUNSEL FOR THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 67-5773,
34 IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF ADMIN-
35 ISTRATION MAY FILE SUIT IN CERTAIN INSTANCES WITH THE ADVICE OF LEGAL
36 COUNSEL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-8725,
37 IDAHO CODE, TO PROVIDE THAT THE STATE TREASURER MAY BE ASSISTED BY LEGAL
38 COUNSEL AND THAT A MUNICIPALITY MUST PAY THE COSTS OF THE STATE TREA-
39 SURER'S LEGAL COUNSEL IN CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL
40 CORRECTIONS; AND AMENDING SECTION 74-123, IDAHO CODE, TO REVISE PROVI-
41 SIONS REGARDING LEGAL COUNSEL FOR THE IDAHO CODE COMMISSION, TO REVISE A
42 PROVISION REGARDING CERTAIN FEES, AND TO MAKE A TECHNICAL CORRECTION.
43

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

1 SECTION 1. That Section 67-1401, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-1401. DUTIES OF ATTORNEY GENERAL. ~~Except as otherwise provided in~~
4 ~~this chapter, i~~It is the duty of the attorney general:

5 (1) To perform all legal services for the state required of him by
6 the constitution of the state of Idaho or by Idaho law and to represent the
7 state and all departments, agencies, offices, officers, boards, commis-
8 sions, institutions and, when requested by them, other state entities in
9 all courts and before all administrative tribunals or bodies of any nature.
10 ~~Representation shall be provided to those entities exempted pursuant to the~~
11 ~~provisions of section 67-1406, Idaho Code.~~ Whenever required to attend upon
12 any court or administrative tribunal, the attorney general shall be allowed
13 necessary and actual expenses, all claims for which ~~shall~~ must be audited by
14 the state board of examiners.

15 (2) To advise all departments, agencies, offices, officers, boards,
16 commissions, institutions and other state entities requesting advice in all
17 matters involving questions of law.

18 (3) After judgment in any of the causes referred to in this chapter, to
19 direct the issuing of such process as may be necessary to carry the same into
20 execution.

21 (4) To account for and pay over to the proper officer all moneys re-
22 ceived ~~which~~ that belong to the state.

23 (5) To enforce the Idaho charitable solicitation act, chapter 12, title
24 48, Idaho Code; the Idaho nonprofit hospital sale or conversion act, chap-
25 ter 15, title 48, Idaho Code; to supervise charitable organizations, as such
26 term is defined in section 48-1903(4), Idaho Code; and to enforce whenever
27 necessary any noncompliance or departure from the charitable purpose of such
28 charitable organizations as set forth and provided in chapter 19, title 48,
29 Idaho Code.

30 (6) To give an opinion in writing, without fee, to the legislature or
31 either house thereof, or any senator or representative, and to the governor,
32 secretary of state, treasurer, state controller, and the superintendent of
33 public instruction, when requested, upon any question of law relating to
34 their respective offices. The attorney general ~~shall~~ must keep a record of
35 all written opinions rendered by the office and such opinions shall be com-
36 piled annually and made available for public inspection. All costs incurred
37 in the preparation of said opinions shall be borne by the office of the attor-
38 ney general. A copy of the opinions ~~shall~~ must be furnished to the supreme
39 court and to the state librarian.

40 (7) When required by the public service, to repair to any county in the
41 state and assist the prosecuting attorney thereof in the discharge of du-
42 ties.

43 (8) To bid upon and purchase, when necessary, in the name of the state,
44 and under the direction of the state controller, any property offered for
45 sale under execution issued upon judgments in favor of or for the use of the
46 state, and to enter satisfaction in whole or in part of such judgments as the
47 consideration for such purchases.

48 (9) Whenever the property of a judgment debtor in any judgment men-
49 tioned in subsection (8) of this section has been sold under a prior judg-

1 ment, or is subject to any judgment, lien, or encumbrance, taking precedence
2 of the judgment in favor of the state, under the direction of the state
3 controller, to redeem such property from such prior judgment, lien, or en-
4 cumbrance; and all sums of money necessary for such redemption must, upon the
5 order of the board of examiners, be paid out of any money appropriated for
6 such purposes.

7 (10) When necessary for the collection or enforcement of any judgment
8 hereinbefore mentioned, to institute and prosecute, in behalf of the state,
9 such suits or other proceedings as may be necessary to set aside and annul all
10 conveyances fraudulently made by such judgment debtors; the cost necessary
11 to the prosecution must, when allowed by the board of examiners, be paid out
12 of any appropriations for the prosecution of delinquents.

13 ~~(11) To exercise all the common law power and authority usually apper-~~
14 ~~taining to the office and to discharge the other duties prescribed by law.~~

15 ~~(12) To report to the governor, at the time required by this section, the~~
16 ~~condition of the affairs of the attorney general's office and of the reports~~
17 ~~received from prosecuting attorneys.~~

18 (132) To appoint deputy attorneys general and special deputy attorneys
19 general and other necessary staff to assist in the performance of the du-
20 ties of the office. Such deputies and staff shall be nonclassified employees
21 within the meaning of section 67-5302, Idaho Code.

22 (143) To establish a medicaid fraud control unit pursuant to the provi-
23 sions of section 56-226, Idaho Code, and to exercise concurrent investiga-
24 tive and prosecutorial authority and responsibility with county prosecutors
25 to prosecute persons for the violation of the criminal provisions of chap-
26 ter 2, title 56, Idaho Code, and for criminal offenses that are not defined
27 in said chapter 2, title 56, Idaho Code, but that involve or are directly re-
28 lated to the use of medicaid program funds or services provided through the
29 medicaid program.

30 (154) To seek injunctive and any other appropriate relief as expedi-
31 tiously as possible to preserve the rights and property of the residents of
32 the state of Idaho, and to defend as necessary the state of Idaho, its offi-
33 cials, employees, and agents in the event that any law or regulation violat-
34 ing the public policy set forth in the Idaho health freedom act, chapter 90,
35 title 39, Idaho Code, is enacted by any government, subdivision, or agency
36 thereof.

37 (165) To establish an internet crimes against children unit pursuant
38 to the provisions of section 67-1410, Idaho Code, and to exercise concurrent
39 investigative and prosecutorial authority and responsibility with county
40 prosecutors to prosecute persons for the violation of the criminal provi-
41 sions of sections 18-1507, 18-1509A, 18-1513 and 18-1515, Idaho Code, which
42 may also encompass criminal offenses that are not defined in said sections
43 but that involve or are directly related to child pornography and sollicita-
44 tion of minors for pornography, prostitution or sex-related offenses.

45 (176) To respond to allegations of violation of state law by elected
46 county officers, to investigate such claims, to issue appropriate findings
47 and to refer such cases for further investigation and prosecution pursuant
48 to section 31-2002, Idaho Code.

49 (187) To establish a sobriety and drug monitoring program to reduce the
50 number of people on Idaho's highways who drive under the influence of alco-

1 hol or drugs, to reduce the number of repeat offenders for certain offenses
 2 in which the abuse of alcohol or drugs was a contributing factor, and to in-
 3 crease pretrial and posttrial options for prosecutors and judges in respond-
 4 ing to repeat DUI offenders and offenders for certain crimes in which the
 5 abuse of alcohol or drugs was a contributing factor in the commission of the
 6 crime, and to adopt such rules and establish such fees as are necessary for
 7 the operation of said program, as set forth by law.

8 SECTION 2. That Section 67-1406, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED ~~--- EXEMPTIONS~~. Notwiths-
 11 tanding any other provision of law to the contrary, ~~no~~ (1) A department, age-
 12 ncy, self-governing agency enumerated in section 67-2601, Idaho Code, offi-
 13 ce, officers, board, commission, college, university, institution or other
 14 state entity shall may be represented by or obtain its legal advice from the
 15 office of the attorney general, or it may exercise litigation authority in-
 16 dependent of the attorney general's office and obtain legal advice and be
 17 represented in court or before an administrative tribunal by an attorney at
 18 law other than licensed to practice law in Idaho outside of the office of the
 19 attorney general except as follows:, or by a combination of attorneys within
 20 and without the office of the attorney general.

21 (1) The legislative and judicial branches of government and the gover-
 22 nor may employ attorneys other than those under the supervision of the attor-
 23 ney general, and such attorneys may appear in any court. However, such enti-
 24 ties may, upon request, utilize the attorney general's legal services.

25 ~~(2) Those state entities within the department of self-governing agen-~~
 26 ~~cies which are enumerated in sections 67-2601(2) (a), 67-2601(2) (b) and~~
 27 ~~67-2601(3), Idaho Code, and colleges and universities may employ private~~
 28 ~~counsel to advise them and represent them before courts of the state of~~
 29 ~~Idaho. Such entities may also obtain legal services from the attorney gen-~~
 30 ~~eral on such terms as the parties may agree.~~

31 (3) Whenever the attorney general determines that it is necessary or
 32 appropriate in the public interest, the attorney general may authorize con-
 33 tracts for legal services pursuant to the provisions of section 67-1409,
 34 Idaho Code.

35 (4) The provisions of section 67-1401, Idaho Code, shall govern the
 36 normal relationship between the attorney general and the state entities in
 37 the executive branch of state government. However, if after consultation
 38 with the attorney general, the governor determines in his sole judgment,
 39 which ~~shall~~ is not be subject to judicial review, that counsel assigned by
 40 the attorney general to represent or give legal advice to any state entity,
 41 other than the lieutenant governor, state controller, state treasurer,
 42 secretary of state, attorney general, and the superintendent of public
 43 instruction, cannot effectively advocate or pursue the policies of the gov-
 44 ernor, the governor ~~shall~~ may request that other counsel be provided by the
 45 attorney general, and the attorney general ~~shall~~ must provide from within
 46 the office of the attorney general or obtain from outside the office of the
 47 attorney general, depending upon the request of the governor, qualified
 48 counsel acceptable to the governor to represent such state entity.

1 (5) Any separate counsel employed pursuant to the foregoing exceptions
 2 ~~shall~~ by a state entity must be compensated with funds appropriated to such
 3 state entity, unless such separate counsel shall have been was employed at
 4 the request or convenience of the attorney general or because of a conflict
 5 in representation by the attorney general, in which case the attorney gen-
 6 eral must compensate such separate counsel with funds appropriated to the
 7 office of the attorney general.

8 (6) Any state entity that intends to employ separate counsel instead of
 9 or in addition to the attorney general's office for its legal services for
 10 any given fiscal year must notify the attorney general accordingly by August
 11 1 of the prior fiscal year, or as soon thereafter as is practicable, and must
 12 provide the estimate of cost for separate counsel in its budget request re-
 13 quired under section 67-3502, Idaho Code. If notice is not provided to the
 14 attorney general by August 1, the state entity may nonetheless employ sepa-
 15 rate counsel but may be required to use its existing appropriation to do so.
 16 A state entity that nevertheless chooses to obtain legal services from the
 17 attorney general during a fiscal year for which the state entity had previ-
 18 ously notified the attorney general that it was declining its legal services
 19 may receive legal services from the attorney general.

20 SECTION 3. That Section 67-1408, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 67-1408. BILLING OF STATE ENTITIES FOR LEGAL SERVICES. The attorney
 23 general, in rendering requested assistance to the departments, agencies,
 24 offices, officers, boards, commissions, institutions and other state enti-
 25 ties, shall charge for all costs of such assistance as determined pursuant
 26 to section 67-1407, Idaho Code, including, but not limited to, salaries
 27 of attorneys, paralegals, administrative, clerical and other personnel,
 28 investigative services, independent contractors, operating expenses and
 29 capital outlay expenses of the office of the attorney general. Whenever the
 30 attorney general determines that it would be beneficial to physically locate
 31 attorneys from his office within an agency a state entity that has requested
 32 legal services of his office, the attorney general and agency ~~may~~ must enter
 33 into an agreement defining the term of the agreement and which operating,
 34 capital or other expenses will be paid by the attorney general and which ex-
 35 penses will be paid by the agency.

36 The attorney general shall manage the attorney general's office ~~to pro-~~
 37 ~~vide unified legal services~~ based upon the legal needs of the state. For this
 38 purpose, the attorney general may, during any fiscal year, assign person-
 39 nel based upon the legal needs existing regardless of the source of funding
 40 therefor.

41 SECTION 4. That Section 67-1409, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 67-1409. CONTRACTS FOR LEGAL SERVICES. ~~(1)~~ The attorney general shall
 44 determine which legal services can most efficiently and effectively be
 45 provided by the attorney general's staff and which legal services can most
 46 efficiently and effectively be provided by contract. ~~The attorney gen-~~
 47 ~~eral shall develop application forms and requests for proposals utilizing~~

1 generally accepted cost containment considerations, for those attorneys
 2 desiring to perform contract legal services for the state. Based upon the
 3 responses received, the attorney general shall recommend to the state board
 4 of examiners which attorneys or firms should be authorized to represent the
 5 state. The state board of examiners shall consider the recommendations made
 6 by the attorney general and shall determine which attorneys or firms so rec-
 7 ommended are authorized to contract to provide legal services for the state,
 8 and the type or types of legal services they are authorized to provide. In
 9 determining which attorneys shall be authorized for particular types of
 10 services, the board of examiners shall select attorneys who, in the board's
 11 judgment can best provide quality legal services for the state entities at
 12 an acceptable cost. The determinations of the board of examiners shall not
 13 be subject to judicial review with the attorney general's office. Whenever
 14 the attorney general determines that an immediate appointment of a special
 15 deputy attorney general would be in the best interests of the state of Idaho,
 16 the attorney general may enter into an agreement with an attorney or firm to
 17 provide legal services for the state on behalf of the attorney general. The
 18 attorney general or any state entity that contracts for legal services will
 19 monitor and supervise the work performed under the contracts and approve any
 20 payments made pursuant to the contract.

21 ~~(2) The performance of all contracts for legal services shall be mon-~~
 22 ~~itored and supervised by the attorney general or his designee, and any pay-~~
 23 ~~ments pursuant to such contracts must be approved by the attorney general.~~
 24 ~~This provision shall not apply to contracts for legal services entered into~~
 25 ~~by those entities exempted by section 67-1406, Idaho Code.~~

26 SECTION 5. That Section 39-9004, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 39-9004. ENFORCEMENT. (1) No public official, employee, or agent of
 29 the state of Idaho or any of its political subdivisions, ~~shall~~ may act to im-
 30 pose, collect, enforce, or effectuate any penalty in the state of Idaho that
 31 violates the public policy set forth in section 39-9003(2), Idaho Code.

32 (2) The attorney general shall take such action as is provided in sec-
 33 tion 67-1401(154), Idaho Code, in the defense or prosecution of rights pro-
 34 tected under this act.

35 SECTION 6. That Section 54-2120, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 54-2120. ATTORNEY GENERAL'S OFFICE TO ADVISE AND REPRESENT. Upon
 38 request of the board, ~~t~~The attorney general's office of the state of Idaho
 39 shall represent the board, ~~and shall~~ give opinions on all questions of law
 40 arising out of the administration of the laws ~~which~~ it shall administer, and
 41 ~~to~~ act for, and on behalf of the board in all actions brought for or against
 42 it under the provisions of this chapter, or as otherwise provided by law, to
 43 the extent encompassed by the request.

44 SECTION 7. That Section 57-727, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 57-727. MANAGER OF INVESTMENTS -- STAFF -- LEGAL ADVISORS. (1) With
 2 the approval of two-thirds (2/3) of the members of the board, a manager of
 3 investments and other portfolio managers may be employed or contracted with
 4 who shall perform such managerial activities and functions as the board may
 5 direct. The manager of investments and portfolio managers shall serve at the
 6 pleasure of the board in nonclassified positions, if such persons are em-
 7 ployees. The manager of investments and portfolio managers may either be em-
 8 ployed by the board or serve pursuant to contract. The salary or compensa-
 9 tion of the manager of investments and portfolio managers shall be set by the
 10 board, subject to approval of the governor, and be paid from appropriations
 11 made therefor. The manager of investments and portfolio managers ~~shall~~ must
 12 be bonded in an amount established by the board if these persons are employ-
 13 ees. If these functions are performed pursuant to contract, the contract
 14 ~~shall~~ must contain a clause to provide for bonding of the contractor's per-
 15 sonnel.

16 (2) The board may authorize the employment of whatever staff it deems
 17 necessary for the administration of the board's business. The manager of in-
 18 vestments may hire portfolio managers and other necessary staff who shall
 19 hold their respective positions subject to the rules of the administrator of
 20 the division of human resources promulgated pursuant to chapter 52, title
 21 67, Idaho Code. The salaries of all staff members shall be paid from appro-
 22 priations made therefor.

23 (3) The director of the department of finance shall have access to any
 24 and all books and records maintained by the manager of investments and his
 25 staff as the board may deem necessary.

26 (4) The board shall ~~be furnished~~ obtain adequate and qualified legal
 27 advisors ~~by~~ from the attorney general's office or other legal counsel se-
 28 lected by the board.

29 (5) All current expenses, capital outlay, and travel expenses shall be
 30 paid from appropriations made therefor.

31 (6) The board ~~shall~~ must, upon request of the agency involved, furnish
 32 advice to the treasurer, the manager of the state insurance fund, and the
 33 public employee retirement board, and the board may, upon request of the
 34 agency, invest funds of the requesting agency.

35 SECTION 8. That Section 58-120, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 58-120. ~~ATTORNEY GENERAL~~ LEGAL COUNSEL TO REPRESENT STATE. The
 38 ~~attorney general shall represent or~~ department of lands shall cause the
 39 state to be properly represented in all suits, actions, contests or contro-
 40 versies relating to or involving state lands or timber, before the several
 41 land offices in this state, before the ~~general land office at Washington,~~
 42 ~~D.C. federal bureau of land management or other federal land management~~
 43 agencies, and before the courts and administrative tribunals of this state
 44 and of the United States, and may employ a competent attorney or attorneys
 45 for that purpose, who shall be paid out of the fund provided for the depart-
 46 ment of lands.

47 SECTION 9. That Section 61-204, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 61-204. ~~ATTORNEY GENERAL~~ ATTORNEY OF COMMISSION. It ~~shall be~~ is the
 2 right and the duty of the commission to select either outside legal coun-
 3 sel or the attorney general, or both, to represent and appear for the peo-
 4 ple of the state of Idaho and the commission in all actions and proceedings
 5 involving any question under this act or under any order or act of the com-
 6 mission and, if directed to do so by the commission, to intervene, if possi-
 7 ble, in any action or proceeding in which any such question is involved; to
 8 commence, prosecute, and expedite the final determination of all actions and
 9 proceedings directed or authorized by the commission; to advise the commis-
 10 sion and each commissioner, when so requested, in regard to all matters con-
 11 nected with the powers and duties of the commission and the members thereof;
 12 and generally to perform all duties and services as attorney to the commis-
 13 sion which the commission may require of him.

14 SECTION 10. That Section 63-3047, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 63-3047. COMPROMISED CASES. The state tax commission or its delegate
 17 may compromise any taxes, penalties or interest arising under the provisions
 18 of this chapter instead of commencing suit thereon and may settle any such
 19 case with the consent of legal counsel or the attorney general after suit
 20 thereon has been commenced.

21 SECTION 11. That Section 63-3048, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 63-3048. ADJUSTED OR COMPROMISED CASES -- SETTLEMENT AND CLOSING
 24 AGREEMENTS. (a) The state tax commission or its delegate is authorized to
 25 enter into an agreement in writing with any person relating to the liability
 26 of such person, or of the person for whom he is acting, in respect of any tax
 27 under this chapter for any taxable period ending prior to the date of the
 28 agreement.

29 (b) Where the amount in issue relating to the tax liability of any tax-
 30 payer is equal to or exceeds fifty thousand dollars (\$50,000) and the commis-
 31 sion has delegated the authority to enter into a settlement or closing agree-
 32 ment for such liability to an individual commissioner, the following minimum
 33 standards of procedure ~~shall~~ apply:

34 (1) In addition to the individual commissioner delegated the princi-
 35 pal responsibility to negotiate on behalf of the commission, a second
 36 commissioner ~~shall~~ must be present for a final review of the negotiated
 37 settlement or closing agreement. Both commissioners ~~shall be~~ are re-
 38 quired to sign the settlement or closing agreement to make it binding
 39 and complete.

40 (2) In addition to the two (2) commissioners present at the final re-
 41 view, the tax commission's legal counsel or a representative of the of-
 42 fice of the attorney general ~~shall~~ must be present as well as tax com-
 43 mission staff, which shall include a tax policy specialist and either a
 44 representative from the audit division or other division where the case
 45 originated.

46 (3) The tax policy specialist, tax commission's legal counsel, or
 47 deputy attorney general assigned to a settlement or closing agreement

1 shall prepare and submit to the commission a written summary for the fi-
2 nal review explaining the terms of the settlement or closing agreement.
3 The summary shall include any recommendations of agency staff including
4 audit staff.

5 (4) The tax commission ~~shall~~ must retain a copy of all settlement and
6 closing agreements and, in addition, all summaries prepared pursuant to
7 subsection (b) (3) of this section.

8 (c) The tax commission ~~shall~~ must submit an annual report to the gov-
9 ernor and the legislature by March 1 of each year summarizing all settlement
10 and closing agreements entered into during the previous calendar year as de-
11 fined by subsection (b) of this section.

12 (d) The tax commission ~~shall~~ may promulgate administrative rules in
13 compliance with chapter 52, title 67, Idaho Code, to implement the provi-
14 sions of this section.

15 (e) Such agreement shall be final and conclusive and, except upon a
16 showing of fraud or malfeasance, or misrepresentation of a material fact:

17 (1) The case ~~shall~~ may not be reopened as to matters agreed upon or the
18 agreement modified by any officer, employee, or agent of the state.

19 (2) In any suit, action, or proceeding, such agreement, or any deter-
20 mination, assessment, collection, payment abatement, refund, or credit
21 made in accordance therewith, ~~shall~~ may not be annulled, modified, set
22 aside, or disregarded.

23 SECTION 12. That Section 63-3056, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 63-3056. ACTION TO ENFORCE LIEN. In any case where there has been a
26 refusal or neglect to pay any tax, including interest, penalty, additional
27 amount or addition to such tax, together with any costs that may accrue in
28 addition thereto, the state tax commission's legal counsel or the attorney
29 general of the state, at the request of the state tax commission, may file
30 an action in the district court for Idaho in the county where the property
31 encumbered by the lien is located to enforce the lien of the state for such
32 tax upon any property and rights to property, whether real or personal, or
33 to subject any such property and rights to property owned by the delinquent,
34 or in which he has any right, title, or interest, to the payment of such tax.
35 Such action shall be commenced and pursued in like manner as is now provided
36 by law for the foreclosure of mortgages and other liens in chapter 1, title
37 6, Idaho Code, which is hereby made applicable to the tax liens arising under
38 this chapter to the extent that such provisions are not inconsistent with
39 other provisions of this chapter, provided, however, that the redemption pe-
40 riod may be fixed by the judge of the court wherein the proceeding was filed,
41 but in no event shall the period of redemption exceed the time prescribed by
42 sections 11-402 and 11-403, Idaho Code. Such action may be commenced at any
43 time within five (5) years following the date such lien was filed, or was last
44 extended.

45 SECTION 13. That Section 63-3066, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 63-3066. LEGAL ADVISER. Unless the tax commission employs outside le-
2 gal counsel instead of or in addition to the attorney general, tThe attorney
3 general of the state shall be the sole legal counselor and adviser of the tax
4 commission.

5 SECTION 14. That Section 67-802, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 67-802. OFFICE OF GOVERNOR -- DUTIES OF GOVERNOR. The office of the
8 governor shall be composed of: the state liquor division, as provided by
9 chapter 2, title 23, Idaho Code; the military division, as provided by title
10 46, Idaho Code; the division of financial management; and such other divi-
11 sions and units as are established or assigned by law, or created through
12 administrative action of the governor.

13 The governor shall appoint an administrator for each division, with the
14 advice and consent of the senate. Administrators shall serve at the plea-
15 sure of the governor, and shall be exempt from the provisions of chapter 53,
16 title 67, Idaho Code. Other subordinate staff necessary to accomplish a di-
17 vision's mission shall be subject to the provisions of chapter 53, title 67,
18 Idaho Code.

19 The supreme executive power of the state is vested by section 5, arti-
20 cle IV, of the constitution of the state of Idaho, in the governor, who is
21 expressly charged with the duty of seeing that the laws are faithfully exe-
22 cuted. In order that he may exercise a portion of the authority so vested,
23 the governor is authorized and empowered to implement and exercise those
24 powers and perform those duties by issuing executive orders from time to
25 time, which shall have the force and effect of law when issued in accordance
26 with this section and within the limits imposed by the constitution and
27 laws of this state. Such executive orders, when issued, shall be serially
28 numbered for each calendar year and may be referred to and cited by such nu-
29 merical designation and title. Each executive order issued hereunder shall
30 be effective only after signature by the governor, and attestation by and
31 filing with the secretary of state, who shall keep a permanent register and
32 file of such orders in the same manner as applies to acts of the legislature.
33 In addition, each executive order required by chapter 52, title 67, Idaho
34 Code, to be published in the administrative bulletin shall be filed with the
35 administrative rules coordinator and published in the bulletin. Each such
36 executive order issued by the governor must prescribe a date after which it
37 shall cease to be effective, which shall be within four (4) calendar years of
38 the effective date of such order, and if no date after which such order shall
39 cease to be effective is contained in the order, then such order shall cease
40 to be effective four (4) calendar years from the issuance thereof, unless
41 renewed by subsequent executive order. The governor may modify or repeal
42 any executive order by issuance of a new executive order. The procedures
43 expressly set forth in this section shall be sufficient to make an executive
44 order effective.

45 In addition to those powers prescribed above, and those prescribed by
46 the constitution, the governor has the powers, and may perform the duties
47 prescribed in this section and the following sections:

48 1. To supervise the official conduct of all executive and ministerial
49 officers.

1 2. To see that all offices are filled, and the duties thereof performed,
2 or, in default thereof, apply such remedy as the law allows; and if the remedy
3 is imperfect, acquaint the legislature therewith at its next session.

4 3. To make the appointments and supply the vacancies provided by law.

5 4. He is the sole official organ of communication between the govern-
6 ment of this state and the government of any other state or territory, or of
7 the United States.

8 5. Whenever any suit or legal proceeding is pending in this state, or
9 ~~which that~~ may affect the title of this state to any property, or ~~which that~~
10 may result in any claim against or by the state, he may direct the attorney
11 general or request other legal counsel of his choosing, or both, to appear on
12 behalf of the state.

13 6. He may require the attorney general or prosecuting attorney of any
14 county to inquire into the affairs or management of any corporation existing
15 under the laws of this state.

16 7. He may require the attorney general to aid any prosecuting attorney
17 in the discharge of his duties.

18 8. He may offer rewards not exceeding one thousand dollars (\$1,000)
19 each, payable out of the state treasury, for the apprehension of any convict
20 who has escaped from the state prison, or of any person who has committed, or
21 is charged with the commission of, an offense punishable with death; and also
22 offer like rewards, not exceeding five hundred dollars (\$500) each, in cases
23 of felony, where the offense is not punishable with death.

24 9. To perform such duties respecting fugitives from justice as are pre-
25 scribed by the penal code.

26 10. To issue and transmit election proclamations as prescribed by law.

27 11. He may require any officer to make special reports to him in writing
28 on demand.

29 12. He has such other powers and may perform such other duties as are
30 devolved upon him by any law of this state.

31 SECTION 15. That Section 67-2601A, Idaho Code, be, and the same is
32 hereby amended to read as follows:

33 67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building
34 safety will be headed by an administrator appointed by and serving at the
35 will of the governor. The division administrator, deputy administrators and
36 regional managers shall be nonclassified employees exempt from the provi-
37 sions of chapter 53, title 67, Idaho Code.

38 (2) The administrator shall administer the following provisions and
39 shall perform such additional duties as are imposed on him by law: chapter
40 41, title 39, Idaho Code, relating to the building code board; chapter 40,
41 title 39, Idaho Code, relating to manufactured homes; chapter 43, title 39,
42 Idaho Code, relating to factory built structures; chapter 21, title 44,
43 Idaho Code, relating to manufactured home dealer and installer licensing;
44 chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation;
45 chapter 10, title 54, Idaho Code, relating to electrical contractors and
46 journeymen; chapter 19, title 54, Idaho Code, relating to licensing of
47 public works contractors; chapter 26, title 54, Idaho Code, relating to
48 plumbing and plumbers; chapter 45, title 54, Idaho Code, relating to public
49 works construction management licensing; chapter 50, title 54, Idaho Code,

1 relating to heating, ventilation and air conditioning systems; chapter 80,
2 title 39, Idaho Code, relating to school building safety; chapter 59, title
3 33, Idaho Code, relating to Idaho school safety and security; chapter 86,
4 title 39, Idaho Code, relating to elevator safety; and chapter 22, title 55,
5 Idaho Code, relating to underground facilities damage prevention.

6 (3) The administrator shall also have the authority to perform safety
7 inspections and safety training programs for logging operations in Idaho.

8 (a) When an inspection reveals evidence of a condition that poses an im-
9 mediate threat of serious bodily harm or loss of life to any person, the
10 administrator and, while on public highways, the director of the Idaho
11 state police and the Idaho transportation board, may issue an order to
12 immediately stop the work, close the facility or site, or detain the ve-
13 hicle where the threat exists. The safety order shall not be rescinded
14 until after the threat has been corrected or removed.

15 (b) The safety order may be enforced by the attorney general or by other
16 legal counsel of the administrator's choosing, or both, in a civil ac-
17 tion brought in the district court for the county wherein the hazardous
18 work site or facility is located or the vehicle is detained.

19 (c) Any person who knowingly fails or refuses to comply with such an or-
20 der is guilty of a misdemeanor.

21 (d) The administrator shall promulgate rules adopting minimum logging
22 safety standards and procedures for conducting inspections and safety
23 training.

24 (e) The director of the Idaho state police and the Idaho transporta-
25 tion board shall have authority on public highways to stop and inspect
26 vehicles and enforce rules promulgated by the administrator pursuant to
27 this section.

28 (4) In addition to safety inspections of state-owned public buildings
29 conducted under chapter 23, title 67, Idaho Code, the administrator may con-
30 duct safety inspections of buildings owned or maintained by political sub-
31 divisions of the state upon receipt of a written request from the governing
32 body of that political subdivision, subject to the availability of division
33 resources and the requesting entity's agreement to pay the division's cur-
34 rent fees for such an inspection.

35 (a) The findings of the inspection shall be reported to the governing
36 body of the political subdivision.

37 (b) The administrator may promulgate rules adopting minimum safety
38 standards and procedures for conducting such inspections, as well as
39 fees for performing the same.

40 (c) For purposes of this section, "political subdivision" means any
41 governmental unit or special district of the state of Idaho other than
42 public school districts.

43 (5) In administering the laws regulating professions, trades and occu-
44 pations that are devolved for administration upon the division, and in addi-
45 tion to the authority granted to the administrator by the laws and rules of
46 the agencies and entities within the division, the administrator may:

47 (a) Revise the operating structure of the division as needed to provide
48 efficient and appropriate services to the various professions, trades,
49 occupations and programs administered within the division;

1 (b) Conduct examinations to ascertain the qualifications and fitness
2 of applicants to exercise the profession, trade or occupation for which
3 an examination is held; pass upon the qualifications of applicants for
4 reciprocal licenses, certificates and authorities; prescribe rules for
5 a fair and impartial method of examination of candidates to exercise the
6 respective professions, trades or occupations; issue registrations,
7 licenses and certificates; and until fees are established in rule, the
8 administrator shall charge a fee of seventy-five dollars (\$75.00) for
9 each examination administered;

10 (c) Conduct hearings on proceedings to discipline, renew or reinstate
11 licenses, certificates or authorities of persons exercising the re-
12 spective professions, trades or occupations; appoint hearing officers,
13 administer oaths, issue subpoenas, and compel the attendance of wit-
14 nesses; revoke, suspend, refuse to renew, or take other disciplinary
15 action against such licenses, certifications or authorities; and pre-
16 scribe rules to assess costs and fees incurred in the investigation and
17 prosecution or defense of any certificate holder, licensee or regis-
18 trant of the division, its boards, bureaus and programs, in accordance
19 with the provisions of section 12-117(5), Idaho Code, when applicable,
20 the contested case provisions of chapter 52, title 67, Idaho Code, and
21 the laws and rules of the boards, bureaus and programs the division ad-
22 ministrates;

23 (d) Assess civil penalties as authorized;

24 (e) Promulgate rules establishing: a coordinated system for the
25 issuance, renewal, cancellation and reinstatement of licenses, cer-
26 tificates, registrations and permits; assessment of all related fees;
27 the terms by which fees may be prorated, if any; and procedures for the
28 replacement of lost or destroyed licenses, certificates or registra-
29 tions; and

30 (f) Promulgate other rules as may be necessary for the orderly adminis-
31 tration of the chapters specified in subsection (2) of this section, ex-
32 cept for those related to underground facilities damage prevention con-
33 tained in chapter 22, title 55, Idaho Code, and such rules as may other-
34 wise be required by those chapters as well as rules for the standardiza-
35 tion of operating procedures.

36 (6) Notwithstanding any law governing any specific board, bureau or
37 program comprising the division of building safety, each board member shall
38 hold office until a successor has been duly appointed and qualified.

39 (7) The administrator shall have the authority to employ individuals,
40 make expenditures, enter into contracts, require reports, make investiga-
41 tions, travel, and take other actions deemed necessary.

42 SECTION 16. That Section 67-5773, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 67-5773. POWERS AND DUTIES -- RISK MANAGEMENT. (1) The director of the
45 department of administration shall:

46 (a) Determine the nature and extent of needs for insurance coverages of
47 all kinds, other than life and disability insurances, as to risks and
48 property of all offices, departments, divisions, boards, commissions,
49 institutions, agencies and operations of the government of the state of

1 Idaho, the premiums on which are payable in whole or in part from funds
2 of the state.

3 (b) Determine the character, terms, and amounts of insurance coverages
4 required by such needs.

5 (c) Within funds available therefor from each respective office, de-
6 partment, division, board, commission, institution, agency or opera-
7 tion with respect to coverage to be provided to it, negotiate for, pro-
8 cure, purchase, and have placed or continued in effect all such insur-
9 ance coverages and services as may reasonably be obtainable, whether
10 from insurers or brokers duly authorized to transact business in this
11 state.

12 (d) Administer all such coverages on behalf of the insured, including
13 making and settlement of loss claims arising thereunder. The director,
14 with may seek the advice of the attorney general or other legal counsel,
15 or both, may cause with regard to causing suit to be brought with respect
16 to any such coverage or loss.

17 (e) Within available funds and personnel, make periodic inspection
18 or appraisal of premises, property and risks as to conditions affect-
19 ing insurability, risk, and premium rate, and submit a written report
20 of each such inspection or appraisal together with recommendations,
21 if any, to the officer, department, or agency in direct charge of such
22 premises, property or risks.

23 (f) Perform such other duties and exercise such other powers as are pro-
24 vided by law.

25 (g) Establish a risk management advisory committee. The director shall
26 consult with the advisory committee in the performance of those duties
27 enumerated above.

28 (2) As to all such needs and coverages, the director shall give due con-
29 sideration to information furnished by and recommendations of any office,
30 department, division, board, commission, institution or agency.

31 SECTION 17. That Section 67-8725, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 67-8725. PAYMENT TRANSFER -- NOTICE OF NONPAYMENT -- STATE FINANCIAL
34 ASSISTANCE INTERCEPT MECHANISM -- STATE TREASURER DUTIES -- INTEREST AND
35 PENALTY PROVISIONS.

36 (1) (a) Each municipality, with outstanding unpaid municipal bonds as
37 set forth in this chapter held by or for the authority, shall transfer
38 moneys sufficient for the scheduled debt service payment to its paying
39 agent at least fifteen (15) days before any principal or interest pay-
40 ment date for the bonds in order that the bonds of the authority may be
41 paid. The paying agent may be the trustee for the bonds of the authority
42 that are secured by those municipal bonds.

43 (b) A municipality subject to this section and chapter with regard to
44 any municipal bonds and ~~which~~ that is unable to transfer the scheduled
45 debt service payment to the paying agent at least fifteen (15) days
46 before the scheduled payment date shall immediately notify the paying
47 agent and the state treasurer by:

48 (i) Telephone;

49 (ii) A writing sent by facsimile transmission; and

1 (iii) A writing sent by first-class United States mail.
2 (c) If sufficient funds are not transferred to the paying agent as re-
3 quired by this subsection, the paying agent shall notify the authority
4 and the state treasurer of that failure in writing at least ten (10) days
5 before the scheduled debt service payment date by:
6 (i) Telephone;
7 (ii) A writing sent by facsimile transmission; and
8 (iii) A writing sent by first-class United States mail.
9 (d) If sufficient moneys to pay the scheduled debt service payment have
10 not been transferred to the paying agent at least ten (10) days before
11 the scheduled payment date, the authority or the state treasurer shall
12 cause sufficient moneys to be transferred from the reserve fund as pro-
13 vided in section 67-8713, Idaho Code, to the paying agent to make the
14 scheduled debt service payment on the bonds of the authority.
15 (e) To the extent moneys transferred from the reserve fund are derived
16 from moneys appropriated to the reserve fund by the legislature, the
17 payment by the state treasurer transfers the rights represented by the
18 obligation of the municipality and/or authority from the bondholders to
19 the state.
20 (2) (a) If one (1) or more payments on bonds are made by the state trea-
21 surer from moneys in the reserve fund that are derived from moneys ap-
22 propriated to the reserve fund by the legislature, due to the failure
23 of the municipality to make payment on its bonds in a timely manner, the
24 state treasurer, subject to the limitations provided in paragraph (b)
25 of this subsection, shall:
26 (i) Immediately intercept any payments from:
27 (A) The receipts of any payment of property taxes; or
28 (B) Sales tax moneys that would be distributed pursuant to
29 section 63-3638, Idaho Code; or
30 (C) Liquor revenues that would be distributed pursuant to
31 section 23-404, Idaho Code; or
32 (D) Any other source of operating moneys provided by the
33 state to the municipality that issued the municipal bonds
34 that would otherwise be paid to the municipality by the
35 state; and
36 (ii) Apply the intercepted payments to reimburse the state for
37 payments made by the state for the bonds of the authority by de-
38 posit to the reserve fund up to the amount withdrawn from the re-
39 serve fund for such purpose until all obligations of the munici-
40 pality to the state arising from those payments, including inter-
41 est and penalties, are paid in full.
42 (b) The foregoing intercept and transfer provisions shall operate by
43 force of law and no consent thereto is required of the municipality in
44 order to be enforceable, provided that such provisions shall not apply
45 to any municipal bonds that were previously deemed exempt from inter-
46 cept under section 67-8728, Idaho Code, when such section was in full
47 force and effect.
48 (c) The state has no obligation to the municipality or to any person or
49 entity to replace any moneys intercepted under the authority of this
50 subsection. Any funds intercepted under subsection (2) (a) (i) of this

1 section shall be used only for payment of bonds of the authority and not
2 the bonds of the municipality, and the municipality shall receive no
3 credit against amounts due under its municipal bonds for any amounts
4 intercepted under subsection (2) (a) (i) of this section.

5 (3) The municipality that issued municipal bonds for which the state
6 has made all or part of a debt service payment, either from amounts in the re-
7 serve fund that are derived from moneys appropriated by the legislature or
8 from moneys transferred from the state sales tax account pursuant to section
9 67-8716, Idaho Code, shall:

10 (a) Reimburse all moneys drawn by the state treasurer on its behalf;

11 (b) Pay interest to the state on all moneys paid by the state from the
12 date the moneys are drawn to the date they are repaid at a rate not less
13 than the average prime rate for national money center banks plus five
14 percent (5%); and

15 (c) Pay all penalties required by this chapter.

16 (4) (a) The state treasurer shall establish the reimbursement interest
17 rate after considering the circumstances of any prior draws by the mu-
18 nicipality on the state, market interest and penalty rates, and the cost
19 of funds, if any, that were required to be borrowed by the state to make
20 payments on the bonds.

21 (b) The state treasurer may, after considering the circumstances giv-
22 ing rise to the failure of the municipality to make payment on its bonds
23 in a timely manner, impose on the municipality a penalty of not more than
24 five percent (5%) of the amount paid by the state for each instance in
25 which a payment by the state is made.

26 (5) (a) (i) If the state treasurer determines that amounts obtained
27 under this section will not reimburse the state in full within one
28 (1) year from the state's payment of a municipality's scheduled
29 debt service payment, the state treasurer shall pursue any legal
30 action, including mandamus, against the municipality to compel it
31 to:

32 (A) Levy and provide tax or other revenues to pay debt ser-
33 vice on its municipal bonds when due; and

34 (B) Meet its repayment obligations to the state.

35 (ii) In pursuing its rights under paragraph (a) of this subsec-
36 tion, the state shall have the same substantive and procedural
37 rights as would a holder of the bonds of a municipality.

38 (b) ~~The attorney general shall assist the state treasurer~~ may select
39 the attorney general or other legal counsel, or both, to assist in these
40 duties.

41 (c) The municipality ~~shall~~ must pay the attorney's fees, expenses, and
42 costs of the state treasurer and the attorney general or other legal
43 counsel.

44 (6) (a) Except as provided in paragraph (c) of this subsection, any
45 municipality whose operating funds were intercepted under this section
46 may replace those funds from other municipal moneys or from property
47 taxes, subject to the limitations provided in this subsection. Said op-
48 erating funds may also be replaced by the authority from excess amounts
49 available to it if the municipality subsequently pays the delinquent

1 payments on its municipal bonds and any penalties or costs of expenses
2 due the authority in connection therewith.

3 (b) A municipality may use property taxes or other moneys to replace in-
4 tercepted funds only if the property taxes or other moneys were derived
5 from:

6 (i) Taxes originally levied to make the payment but ~~which~~ that
7 were not timely received by the municipality;

8 (ii) Taxes from a supplemental levy made to make the missed pay-
9 ment or to replace the intercepted moneys;

10 (iii) Moneys transferred from the undistributed reserve, if any,
11 of the municipality; or

12 (iv) Any other source of money on hand and legally available.

13 (c) Notwithstanding the provisions of paragraphs (a) and (b) of this
14 subsection, a municipality may not replace operating funds intercepted
15 by the state with moneys collected by the municipality and held to make
16 payments on its municipal bonds if that replacement would divert moneys
17 from the payment of future debt service on its municipal bonds and in-
18 crease the risk that the state would be called upon an additional time to
19 make payments on the bonds of the authority.

20 SECTION 18. That Section 74-123, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 74-123. IDAHO CODE IS PROPERTY OF THE STATE OF IDAHO. (1) The Idaho
23 Code is the property of the state of Idaho, and the state of Idaho and the
24 taxpayers ~~shall be~~ are deemed to have a copyright on the Idaho Code. If a
25 person reproduces or distributes the Idaho Code for the purpose of direct
26 or indirect commercial advantage, the person shall owe to the Idaho code
27 commission, as the agent of the state of Idaho, a royalty fee in addition
28 to the fee charged for copying the Idaho Code. Any person who reproduces or
29 distributes the Idaho Code in violation of the provisions of this section,
30 ~~shall be~~ is deemed to be an infringer of the state of Idaho's copyright. The
31 Idaho code commission, through the office of the attorney general or other
32 legal counsel selected by the commission, is entitled to institute an action
33 for any infringement of that particular right committed while the Idaho code
34 commission or its designated agent has custody of the Idaho Code.

35 (2) A court having jurisdiction of a civil action arising under this
36 section may grant such relief as it deems appropriate. At any time while an
37 action under this section is pending, the court may order the impounding, on
38 such terms as it deems reasonable, of all copies claimed to have been made or
39 used in violation of the Idaho code commission's copyright pursuant to this
40 section.

41 (3) An infringer of the state of Idaho's copyright pursuant to this sec-
42 tion is liable for any profits the infringer has incurred by obtaining the
43 Idaho Code for commercial purposes or is liable for statutory damages as pro-
44 vided in subsection (4) of this section.

45 (4) The Idaho code commission, as agent of the copyright owner, may
46 elect, at any time before final judgment is rendered, to recover, instead
47 of actual damages and profits, an award of statutory damages for all in-
48 fringements involved in the action, with respect to the Idaho Code for which
49 any one (1) infringer is liable individually, or for which any two (2) or

1 more infringers are liable jointly and severally, in a sum of not less than
2 two hundred fifty dollars (\$250) ~~or~~ and not more than ten thousand dollars
3 (\$10,000), as the court considers just.

4 (5) In any civil action under this section, the court may allow the re-
5 covery of full costs by or against any party and may also award reasonable at-
6 torney's fees to the prevailing party as part of the costs.

7 (6) The Idaho code commission is hereby authorized to license and
8 charge fees for the use of the Idaho Code. The Idaho code commission may
9 grant a license for the use of the Idaho Code to a public agency in the state
10 and waive all or a portion of the fees. All fees recovered by the Idaho code
11 commission ~~shall~~ must be deposited in the general ~~account~~ fund.